

TOWN OF PUTNEY, VERMONT

ZONING REGULATIONS



**This basic text amended in its entirety the ordinance entitled
“Zoning Regulations, Town of Putney, Vermont,” adopted
March 7, 1978, and last amended on March 7, 1989.
This basic text became effective on March 4, 1997.**

**The March 4, 1997, basic text has since been amended on the following dates:
3/2/99, 7/1/02, 5/17/04, 8/30/05, 9/26/07, 9/25/13, 6/21/17, 5/8/18, 6/20/18, 9/26/18, 10/9/19, 5/22/2021**

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ARTICLE I ADMINISTRATION AND PROCEDURE

SECTION 100 ENACTMENT AND PURPOSE

100.1 Enactment. In accordance with the Vermont Planning and Development Act, 24 V.S.A. Chapter 117 (hereinafter, "Act"), Section 4401 and 4402(1), there are hereby established zoning regulations for the Town of Putney, Vermont, which are set forth in the text and Zoning Map¹ which constitute these regulations. These regulations shall be known and cited as the "Town of Putney, Vermont, Zoning Regulations."

¹[Other maps are cited within the text of these regulations and are hereby included in these Zoning Regulations by reference. They include, but are not limited to, the Putney Town Plan maps, the National Flood Insurance Program maps, the Vermont Agency of Natural Resources' Wellhead Protection Area maps, the U.S. Fish and Wildlife Service's National Wetlands Inventory maps, and the Vermont Agency of Natural Resources' Vermont Significant Wetland Inventory maps.]

100.2 Intent. It is the purpose of these Regulations to provide for orderly community growth, to promote the public health, safety and welfare, to implement the Town Plan, and to further the purposes established in Section 4302 of the Act.

SECTION 110 ADMINISTRATION AND ENFORCEMENT

110.1 Zoning Administrator. The Administrative Officer (hereinafter, "Zoning Administrator") shall be appointed in accordance with Section 4448 of the Act, and shall administer and enforce these regulations, maintain records, and perform all other necessary tasks to ensure compliance.

- A. As provided in Section 4448(c) of the Act, the Zoning Administrator should provide an interested person with forms required to obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by the municipality of land development. If other municipal permits or authorizations are required, the Zoning Administrator should coordinate a unified effort on the behalf of the municipality in administering its development review programs. The administrative officer should 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.
- B. An Acting Zoning Administrator may be appointed and shall have the same duties and responsibilities as the Zoning Administrator in his or her absence.

110.2 Development Review Board. The Legislative Body shall appoint a Development Review Board (hereinafter, "DRB") consisting of not less than three (3), nor more than nine (9) persons. Appointments are made in March with the term being three years. Vacancies shall be filled by the Selectpeople for the unexpired term. The Selectpeople may also appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. The DRB may consist of members of the Planning Commission. At least a majority of the members shall be residents of Putney. The DRB shall have all the powers and duties specified in the Act and these zoning regulations, including, but not limited to, review and decisions regarding Site Plan Applications, Planned Residential Developments, Planned Unit Developments, Planned Educational Developments, development of lots without road frontage on Town or State maintained right-of-way's or the Connecticut River, requests for a Variance or a Waiver from the provisions of these regulations, requests for Conditional Use approval and hearing and deciding on appeals of any decision or act of the Zoning Administrator.

110.3 Planning Commission. The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Selectpeople. At least a majority of the members shall be residents of Putney. The Planning Commission shall have all the powers and duties specified in the Act and these zoning regulations, and periodic review and revisions of the Town Plan and the Zoning Regulations.

- 110.4 Public Notice.** In accordance with the Section 4464 of the Act, a warned public hearing shall be required as follows:
- A. Conditional use review (Section 220), variances and waivers (Sections 230 & 235), appeals of decisions of the Zoning Administrator (Section 240) and final subdivision review.** Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:
 - 1. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
 - 2. posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
 - 3. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
 - B. Site Plan Review.** Public notice of all other types of development review hearings, including site plan review (Section 240), shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
 - 1. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
 - 2. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
 - C.** No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.
- 110.5 Enforcement.** Any violation of these regulations shall be subject to fines and enforcement as provided in Sections 4451 and 4452 of the Act.
- 110.6 Amendments.** These Regulations may be amended according to the requirements and procedures established in Sections 4441 and 4442 of the Act.
- 110.7 Interpretation.** In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except for Section 4413 of the Act and where, in these regulations, specifically provided to the contrary, it is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these regulations shall control.
- 110.8 Effective Date.** These amendments shall take effect in accordance with the voting and other procedures contained in Sections 4441 and 4442 of the Act. On the day they are effective, they shall amend in its entirety the ordinance entitled "Zoning Regulations, Town of Putney, Vermont," adopted March 7, 1978, and last amended March 4, 1997.
- 110.9 Severability.** The invalidity of any article or section of these Regulations shall not invalidate any other part.

ARTICLE II PERMITS AND APPROVALS

SECTION 200 ZONING PERMITS

200.1 When Required. A Zoning Permit shall be required prior to the commencement of any Land Development. "Land Development" is defined in Section 4303(10) of the Act to mean:

- A. The division of a parcel into two or more parcels;
- B. The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill; and
- C. Any change in the use of any building or other structure, or land, or extension of use of land.

200.2 Purpose of Permits. Zoning Permits are required so that the Zoning Administrator is provided with information about Land Development within the Town of Putney, and to ensure that all such activity is in compliance with these regulations.

200.3 Application for a Zoning Permit. The Zoning Administrator shall consider an application for a Zoning Permit to be complete only when all of the following requirements are met:

- A. A Zoning Permit Application Form, as established by the Development Review Board, has been properly completed and submitted.
- B. The Zoning Permit fee, as established by the Board of Selectpeople, and a recording fee has been paid.
- C. All applicable local approvals that may be required by these regulations have been secured, including, but not limited to:
 - 1. Site Plan Approval
 - 2. Conditional Use Approval
 - 3. Planned Residential Development, Planned Unit Development, or Planned Education Development approval
 - 4. Variances and Waivers
- D. Any additional information requested by the Zoning Administrator has been provided.
- E. Pursuant to Section) 4440(d) of the Act, the Development Review Board may require an applicant to pay for reasonable costs of an independent technical review of an application. The applicant and board shall enter into a written agreement specifying the scope, cost, and payment schedule of the technical review.

200.4 Issuance of a Zoning Permit.

- A. When an application for a Zoning Permit has been deemed complete, the Zoning Administrator shall act within 30 days to approve or deny the application, or it shall be deemed approved. The applicant shall be notified in writing of either denial of the application, with reasons, or approval of the application. Zoning Permits requiring local approvals (pursuant to Section 200.3C above) shall be subject to the conditions and limitations described in those approvals.
- B. No zoning permit may be issued by the Zoning Administrator except in conformance with these regulations.

- C. A zoning permit remains in effect regardless of transfer of ownership or interest in a lot. The burden of proof to satisfy all standards shall be on the applicant.

200.5 Effective Date. As provided in Section 4449(a)(3) of the Act, no zoning permit issued by the Zoning Administrator shall take effect until 15 days have passed or, if an appeal is filed, until final adjudication of the appeal.

- A. Within three days following the issuance of a zoning permit, the Zoning Administrator shall deliver a copy of the permit to the Listers and post a copy of the permit in at least one public place in the municipality until the expiration of fifteen days from the issuance of the permit.
- B. Each zoning permit shall contain a statement of the 15-day period during which an appeal may be made and shall require posting of a notice of permit, on a form prescribed by the Town of Putney, within view from the public right-of-way nearest to the property for which the permit has been issued until the time of the appeal has expired.
- C. Pursuant to Section 4465 of the Act, an Interested Person may appeal any act or decision of the Zoning Administrator to the DRB within 15 days.
- D. Pursuant to Sections 4449 of the Act, within 30 days after a zoning permit or certificate of occupancy has become final or a notice of violation or other statement has been issued, the Zoning Administrator shall deliver a notice of the zoning permit, certificate of occupancy, notice of violation, or other statement to the Town Clerk for recording. The Zoning Administrator shall charge the applicant for the cost of the recording fees.

200.6 Expiration. All activities authorized by a Zoning Permit shall be completed within 2 years or the zoning permit shall become null and void and reapplication to complete any activities shall be required. Any activities not completed within 2 years shall be subject to any ordinances in effect at the time of reapplication. The Development Review Board may grant a one-year extension to this two-year period.

200.7 Posting of Zoning Permit. Upon the issuance of a Zoning Permit and the commencement of Land Development as defined by these Regulations, the permittee shall post a copy of the Zoning Permit in a conspicuous place on the land or structure involved until the project has been completed. Failure to post such a notice shall be deemed a violation of this Regulation.

SECTION 210 CERTIFICATE OF OCCUPANCY.

Pursuant to Section 4449(a)(2) of the Act, except as provided below, it shall be a violation of these regulations to use or occupy or permit the use of occupancy of any Land Development, following receipt of a zoning permit, until a Certificate of Occupancy has been issued by the Zoning Administrator.

- A. A Certificate of Occupancy shall only be required for Land Development which required Development Review Board Approval before a Zoning Permit could be issued.
- B. A Certificate of Occupancy shall not be required for Land Development which solely required a Variance or Subdivision Approval.
- C. Prior to issuance of a Certificate of Occupancy, the Zoning Administrator shall determine that the Land Development conforms to the requirements of these Zoning Regulations as well as the Findings of Fact, Conclusions of Law, and Decisions (including any conditions of approval) of any Development Review Board approvals issued for the Land Development. [see Section 200.5.D]
- D. In the case of Land Development that has been approved by the Development Review Board for phased construction, a Certificate of Occupancy shall be required for each phase of the development.

- E. Temporary Certificate of Occupancy. Subject to appropriate conditions, the Zoning Administrator may grant a Temporary Certificate of Occupancy for Land Development which does not yet comply with all the requirements listed in Subsection C above due to circumstances beyond the lot owner's control.¹ The Zoning Administrator may require a letter of credit or other financial security instrument adequate to ensure that the development shall be completed in a timely manner as required.

¹[For example, the onset of Winter has delayed the planting of landscaping until Spring, or temporary exterior light fixtures have been installed while the correct lighting fixtures have been back ordered.]

SECTION 220 CONDITIONAL USE APPROVAL

Pursuant to Section 4414(3) of the Act, no Zoning Permit shall be issued for any use or structure which requires Conditional Use Approval under these Regulations until the DRB has granted its approval. A Conditional Use shall be approved only if the DRB determines, after public notice and hearing, that the proposed use conforms to the general and specific standards contained in these Regulations. The burden of proof to satisfy all standards shall be on the applicant.

- A. The DRB shall act to approve or disapprove any requested Conditional Use within 45 days after the date of the final public hearing or the Conditional Use shall be deemed approved. The applicant shall be notified in writing of either approval, approval with conditions, or denial. All decisions shall be sent by certified mail, within the required 45-day period, to the applicant. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.
- B. Conditional Use Approval shall remain in effect regardless of transfer of ownership or interest in the Lot.
- C. Any alteration or expansion of an existing Conditional Use shall require Conditional Use Approval.
- D. No clearing of land or construction of access roads shall occur in preparation for a Conditional Use until approval for this use has been granted by the DRB and a zoning permit has been issued.
- E. Where so specified in these regulations, certain uses and structures which exceed the limits which would otherwise apply to them under these regulations may apply for approval as a Conditional Use. These regulations include, but are not limited to, the following:
1. Setbacks [see Sections 300.9.A.6 and 300.9.B.2]
 2. Accessory Use [see Section 310.3.D.]
 3. Secondary Use [see Section 310.4.B]
 4. Residential Care/Group Homes [see Section 505.A]
 5. Child Care Facilities [see Section 505.B]
 6. Height [see Section 506]
 7. Demolition, Burning, or Abandonment of Structures [see Section 507]
 8. Land Use Performance Standards [see Section 508]
 9. Temporary Homes and Offices During Construction [see Section 606]
 10. Wireless Telecommunications Facilities Bylaw [see Section 607]
 11. Shorelands [see Sections 710.5.D and 710.8.B]
- F. Sketch Plan Review. An applicant may attend a Development Review Board meeting to discuss a proposed development and the application procedure before submitting an application. This procedure is called "Sketch Plan Review."

220.1 General Standards for Conditional Use Approval. Before granting Conditional Use Approval, the DRB shall determine that the proposed use shall not adversely affect *(see Adverse Effect, Section 830):

- A. The capacity of existing or planned community facilities, including, but not limited to, emergency services, the municipal sewer system, stormwater drainage facilities, recreational facilities, the school system, municipal parking areas, and solid waste disposal facilities.
- B. The character of the area affected, including but not limited to, areas of scenic or natural beauty, historic sites, or rare and irreplaceable natural areas. The DRB shall consider the objectives of the zoning district in which the proposed use is to be located and specifically stated policies and standards of the Town Plan.
- C. Traffic on roads and highways in the vicinity. In making this determination, the DRB may require submission of a traffic impact study prepared by a professional traffic engineer.
- D. Any bylaws of the Town of Putney, including other factors specified in these Zoning Regulations which are directly related to the above aspects of Conditional Use Approval, including, but not limited to:
 - 1. Section 508: General Performance Standards
 - 2. Section 509: Landscaping, Screening, and Site Lighting
 - 3. Section 510: Off-street Parking Space Requirements
 - 4. Section 511: Off-street Loading Space Requirements
 - 5. Section 607: Wireless Telecommunications Facilities Bylaw
 - 6. Section 710.6: Shoreland Regulations
- E. The utilization of renewable energy resources.

220.2 Specific Standards for Conditional Use Approval. The DRB may impose reasonable conditions in addition to those expressly specified in these Regulations in order to safeguard the interest of abutting properties, the neighborhood, or the Town as a whole. Such conditions may include, but are not limited to, the following:

- A. Increasing the required lot size or setback requirements;
- B. Limiting the lot coverage or height of buildings;
- C. Controlling the number, size, and location of vehicular access points;
- D. Modifying the number of required off-street parking and loading spaces;
- E. Controlling the number, location, and size of signs;
- F. Requiring suitable landscaping, screening and erosion control;
- G. Requiring the use of devices or methods to prevent or control fumes, gas, smoke, dust, odor, excess light, noise, or vibration;
- H. Limiting the days and hours of operation;
- I. Requiring the installation of acceleration or deceleration lanes on the street or highway adjacent to any driveway serving the development;
- J. Requiring the improvement of any intersections adversely affected by the development.

SECTION 230 VARIANCES

Pursuant to Section 4469 of the Act, requests for Variances shall be heard and decided on by the DRB.

- A. When a variance from the provisions of a zoning regulation is requested for a structure that is not primarily a renewable energy resource structure, the variance may be granted if all of the following facts are found and the findings are specified in the decision:
 - 1. That there are unique physical circumstances or conditions including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances and conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.
 - 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - 3. That the unnecessary hardship has not been created by the appellant.
 - 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
 - 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulations and the plan.
- B. When a variance from the provisions of a zoning regulation is requested for a structure that is primarily a renewable energy resource structure, the variance may be granted pursuant to Section 4469(b) of the Act.
- C. The DRB shall act to approve or disapprove any request for a variance within forty-five days from the final public hearing, or it shall be deemed approved. The applicant shall be notified in writing of either approval, approval with conditions, or denial. All decisions shall be sent by certified mail, within the required 45-day period, to the applicant. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.
- D. In rendering a decision in favor of an appellant, the DRB may attach such conditions as may be necessary and appropriate under the circumstances to implement the purposes of the Act and the current Putney Town Plan.
- E. The burden of proof to satisfy all standards shall be on the applicant.

SECTION 235 WAIVERS

- A. When the standards necessary to grant a variance cannot be met, a waiver may be considered to allow for the reduction of dimensional requirements that may limit the reasonable use or development of a property.
- B. Pursuant to 24 VSA 4414 (8), waivers to dimensional requirements of this Zoning Bylaw may be granted by the Development Review Board (DRB) after considering the Waiver Criteria below. The burden of proof is on the applicant to demonstrate that the waiver requested meets the Waiver Criteria.
- C. A waiver may be granted to any of the dimensional requirements in this Zoning Bylaw except to create a lot that does not meet applicable zoning district requirements, such as minimum lot size or frontage (unless part of a PUD, PRD, or PED).
- D. **Waiver Criteria.** The DRB may grant a waiver(s) to a dimensional requirement(s) after making findings on the following criteria:
 - 1. The waiver is helpful or necessary to allow for reasonable use of the property.

2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. Any adverse effects of the waiver are mitigated by design, screening, or other remedies.
4. The proposed project will still conform to the Town Plan.
5. The proposed project will still conform to the purpose of the zoning district in which the land development is located.
6. The proposed project will not have an undue adverse effect on the following:
 - a. Surrounding properties and property values
 - b. The character and aesthetics of the neighborhood
 - c. Traffic patterns and circulation
 - d. Public health, safety, and utility services
 - e. Stormwater management
 - f. Water and wastewater capacity.
 - g. Regulated Flood Hazard Areas
 - h. Areas of Special Consideration (Section 700)

235.1 WAIVER APPLICATION AND REVIEW PROCESS

- A. Applicants seeking a waiver must file a complete a Zoning Permit Application (Section 200.3) and indicate what dimensional standards are to be considered for a waiver, and the specific modification(s) being requested.
- B. The application shall come to the DRB either from the applicant as an appeal of a decision of the administrative officer or a referral from the administrative officer.
- C. Requests for waivers shall be heard and decided on by the DRB at a properly warned public hearing.
- D. The DRB shall consider the opinion of abutters in deciding whether to grant the waiver.
- E. In granting a decision in favor of the applicant, the DRB may attach reasonable conditions, including mitigation by design, screening, or other remedy.
- F. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.
- G. Expiration: Waiver approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One-year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing.
- H. Appeals: Any request for a Waiver that is denied may be appealed per Section 250 of this bylaw.

SECTION 240 SITE PLAN APPROVAL

- A. Pursuant to Section 4416 of the Act, Site Plan Approval from the DRB shall be required before the issuance of a zoning permit for all proposed Land Development including Planned Residential Developments, Planned Unit Developments, and Planned Educational Developments, except for the following:
 1. Agriculture uses and structures [see Section 512]
 2. Forestry and conservation usages and structures of less than 500 square feet;
 3. Single-family and two-family dwellings and accessory structures thereto;
 4. Home occupations.

- 5. State registered or licensed child care facilities serving not more than six (6) persons, group homes and residential care homes serving not more than eight (8) people.
 - 6. Amendments to uses and structures which, in the opinion of the Chairperson of the DRB, are minor and have no adverse effect in terms of the Site Plan review criteria stated in Section 240.2 below.
- B. The Zoning Administrator shall determine whether Site Plan Approval is required for any proposed Land Development.
- C. **Sketch Plan Review:** An applicant may attend a DRB meeting to discuss a proposed development and the application procedure before submitting an application. This procedure is called "Sketch Plan Review."
- D. The DRB shall act on a Site Plan application within 45 days from the date of receipt of a complete application by the Zoning Administrator. Failure to act within such period shall be deemed approval of such Site Plan.
- E. The DRB may approve a site plan, disapprove a site plan, or approve a site Plan with conditions. All decisions shall be sent by certified mail, within the required 45-day period, to the applicant. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.
- F. The burden of proof to satisfy all standards shall be on the applicant.

240.1 SITE PLAN APPLICATION

- A. The applicant shall submit a minimum of 2 sets of site plan maps and supporting data to the Development Review Board which shall include the following information presented in drawn form and written text:
- 1. Name and address of owner of property and of applicant, if different than owner, and of owners of record of adjoining lands; name and address of person or firm preparing map.
 - 2. Site location map, property lines, acreage figures, lot numbers, scale of map, north arrow and date.
 - 3. Existing features, including structures, utility easements and rights-of-way.
 - 4. Proposed grading and location of structures and land use areas.
 - 5. Proposed layout of roads, driveways, walkways, sewage disposal areas, stormwater drainage facilities, fire protection facilities, curbing, traffic circulation, parking and loading areas, and points of access including access for emergency vehicles.
 - 6. Existing trees, shrubs and other vegetation to be preserved on the site.
 - 7. Proposed landscaping, walls, site lighting, sign locations, and fencing.
- B. The DRB may waive or modify the application submission requirements when deemed appropriate.
- C. The DRB may require submission of additional site plan information including, but not limited to, surveys, site contours, construction sequence and time schedule for project completion, site excavation and grading, a storm water drainage plan, building elevations and floor plans, and estimate of daily and peak hour traffic generation and/or a traffic study.
- D. The DRB may require that for industrial uses, commercial development involving more than 1 business, mobile home parks, and planned developments (PRD/PUD/PED), the site plan must be prepared by a licensed professional engineer or professional architect.

240.2 SITE PLAN REVIEW CRITERIA. The DRB shall consider and may impose appropriate conditions and safeguards regarding the following criteria in its review and approval of the proposed site plans:

- A. **Maximum safety of vehicular circulation between the site and the street network** and integration with the overall traffic pattern, including provisions for auxiliary roadways connecting with adjacent properties where appropriate. Included in the evaluation shall be the location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distances, lighting, location of sidewalks and other walkways, and the overall relationship of the proposed development with existing traffic conditions in the area. All modes of transportation shall be taken into account, including pedestrian, bicycle, handicapped, delivery and emergency vehicles.
- B. **Adequacy of on-site circulation, parking and loading facilities with particular attention to safety.** Included in this evaluation shall be traffic movement patterns, drive and aisle widths, directional signs, location of loading docks and parking areas, number and size of parking spaces, and provision for lighting, drainage, snow removal and access for emergency vehicles.
- C. **Adequacy of landscaping, screening and setbacks** in regard to achieving maximum compatibility and protection of adjacent properties. Landscaping and screening should include measures to screen adjacent properties from glare produced by interior or exterior lights and from potentially unsightly areas such as storage areas, dumpsters, and parking lots. Screening and landscape materials shall not interfere with safety. Landscape materials shall be of a type that can survive and be maintained as proposed.
- D. **Protection of the utilization of renewable energy resources** including a finding that the proposed development does not adversely affect the ability of adjacent properties to use this form of energy.
- E. **Adequacy of provision for safety and convenience of pedestrians, bicyclists, and handicapped persons.** Included in this evaluation shall be lighting of walks and entrances, design and placement of walks, crosswalks, and pick-up points.
- F. **Other factors** specified in the bylaws which are directly related to the above aspects of site plan review, including, but not limited to:
 - 1. Section 508: General Performance Standards
 - 2. Section 509: Landscaping, Screening, and Site Lighting
 - 3. Section 510: Off-street Parking Space Requirements
 - 4. Section 511: Off-street Loading Space Requirements
 - 5. Section 607: Wireless Telecommunications Facilities Bylaw

SECTION 250 APPEALS

250.1 Administrative Officer Actions. Any interested person as defined under the Section 4465 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Board and by filing a copy of the notice with the Zoning Administrator.

- A. The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under Section 4468 of the Act. The Board shall give public notice of the hearing under Section 110.4, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- B. In accordance with Section 4470 of the Act, the Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant.

- C. In accordance with Section 4468 of the Act, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.
- D. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under Section 4464(b) of the Act. The decision shall be sent by certified mail to the appellant within the 45-day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality. Failure of the Board to issue a decision within this 45-day period shall be deemed approval and shall be effective on the 46th day.

250.2 Interested Persons. The definition of an interested person under Section 4465(b) of the Act includes the following:

- A. a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- B. the Town of Putney or any adjoining municipality;
- C. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
- D. any ten (10) voters or property owners within the municipality who, by signed petition to the Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- E. any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

250.3 Notice of Appeal. A notice of appeal filed under this section shall be in writing and include the following information, in accordance with Section 4466 of the Act:

- A. the name and address of the appellant,
- B. a brief description of the property with respect to which the appeal is taken,
- C. a reference to applicable provisions of these regulations,
- D. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- E. the alleged grounds why such relief is believed proper under the circumstances.

250.4 Appeals to Environmental Court. In accordance with Section 4471 of the Act, an interested person who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

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

SECTION 260 AMENDMENDING A ZONING PERMIT, SITE PLAN, OR PRD, PUD OR PED

260.1 Administrative Process. An applicant may request in writing that the Zoning Administrator amend a zoning permit or approved plan.

- A. The Zoning Administrator must only approve an amendment to a zoning permit or approved plan upon finding that the proposed amendment conforms to all applicable provisions of these regulations and is not a Material Change.
- B. Material Change means a change in the planned use or development of land or a structure that may have affected the decision made or any conditions placed on the permit if it had been included in the plans as approved.

Note: Add the definition of “Material Change” to Zoning Regulation Article IX: Definitions.

- C. The Zoning Administrator must notify the Development Review Board upon approving amendments to any permit previously reviewed by the Development Review Board.
- D. The Zoning Administrator may decline to amend a permit or approved plan, or refer the request to the Development Review Board.

260.2 Development Review Board Process. The Development Review Board must review any request to amend a permit or approved plan not approved by the Zoning Administrator under Section 260.1.

- A. The process for applying for an amendment will be the same as for the original approval.
- B. The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plan affected by the proposed amendment.

ARTICLE III ZONING DISTRICTS

SECTION 300 PURPOSE

Zoning districts are established in the Town of Putney to further the public health, safety and welfare of the Town. The districts seek to provide an orderly, attractive, compatible, and logical growth pattern by allocating various functions and uses to areas best suited for them.

300.1 Zoning Districts. The following districts are shown on the Zoning Map and constitute the underlying zoning districts for the Town of Putney.

- | | |
|------------------------|------|
| A. Conservation | (CN) |
| B. Resource | (RS) |
| C. Rural Residential | (RR) |
| D. Village Residential | (VR) |
| E. Village | (V) |
| F. Multiple Use | (MU) |

300.2 Overlay Districts. Certain portions of the Town of Putney are considered Areas of Special Consideration. These areas are special overlay districts, and may occur in any of the Zoning Districts. Descriptions of Areas of Special Consideration and regulations governing Land Development within and adjacent to these areas are found in Article VII.

300.3 Zoning Map. The location and boundaries of Zoning Districts are shown on the Zoning Map, hereafter called the “map.” This map is a part of these regulations, together with all future amendments. Regardless of the existence of copies of this map which may from time to time be made or published, the official map shall be located in the Town Clerk's Office and shall bear the signatures of both the Chair of the Putney Planning Commission and the Chair of the Putney Board of Selectpeople. This map shall indicate the current zoning status of land and water areas.

300.4 Boundaries. Boundaries between districts are, unless otherwise indicated, established from the centerlines of existing roads and boundaries of water.

A. **Interpretation of District Boundaries.** Where due to scale, lack of detail, illegibility, or other factors there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary shown thereon, the Zoning Administrator shall make an interpretation based upon the intention and text of these regulations and by actual measurement in the field using the distances described in Subsection B below. Pursuant to Section 4465 of the Act, an applicant or Interested Person may appeal the decision of the Zoning Administrator within 15 days to the DRB.

B. Boundaries of the different zoning districts are typically established as follows:

1. At the centerlines of roads or bodies of water.
2. 750' back from the centerline of roads or bodies of water.
3. 1,500' back from the centerline of roads or bodies of water.
4. At the termination point of town highways.
5. At the point at which a Class 3 Town highway becomes a Class 4 Town highway as shown on the Vermont General Highway Map, Town of Putney, prepared by the Vermont Agency of Transportation Planning Division.
6. Using 750' curve radii.

300.5 Use of Lots in More Than One Zoning District. When a lot falls within more than one zoning district, the provisions of the district in which the Land Development is to be principally located shall apply.

300.6 Lot Area Minimum for Lots in More Than One Zoning District. When a lot falls within more than one zoning district, lot area minimum shall be intermediate between the minimums in the different zones. The area of the lot within each zone shall be divided by the minimum area required in that zone. If the sum of these ratios is greater than or equal to one, then a zoning permit may be issued for subdivision.

Example 1: If a lot has 1 acre in a 2-acre zone and 6 acres in a 10-acre zone, the lot would be considered large enough for a zoning permit for subdivision. $(\frac{1}{2}) + (6/10) = 1.1$

Example 2: If a lot has 6 acres in a 10-acre zone and 6 acres in a 20-acre zone, then the lot would not be large enough to receive a zoning permit for subdivision. $(6/10) + (6/20) = 0.9$

300.7 Reduction in Lot Area. No lot shall be so reduced in size that the area, lot width and depth, setbacks, or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is being acquired for a public or utility purpose or to provide driveway or road access to a lot in the rear.

300.8 Principal Buildings and Uses. In Conservation, Resource, and Rural Residential zoning districts, there shall be only one Principal Building and one Principal Use on a lot unless otherwise approved under the Planned Residential Development, Planned Unit Development, or Planned Education Development provisions of these Regulations.

- A. In such districts, if there is a dwelling unit on a lot, the structure in which the dwelling unit is located shall be considered the principal building.
- B. This regulation shall not apply to agricultural structures. [see also Section 512]

300.9 Building Setbacks. Setback areas shall be as prescribed, or existing building setbacks may be maintained for replacement structures. [see also Sections 710.4 and 710.8 for setbacks from water bodies]

- A. There shall be no structures erected within required setback areas. Every part of a required setback area shall be open from grade level to the sky, unobstructed, except for:
 - 1. Sills, cornices, pilasters, chimneys and eaves, which may project from a structure a maximum distance of 2 feet into the setback.
 - 2. Covered or open steps, which may project from a structure into the setback a maximum of half the setback width.
 - 3. Fire escapes, wheelchair access ramps, and similar structures required for a structure to comply with access and/or safety requirements (such as the Americans with Disability Act) may project fully into the setback.
 - 4. Structures providing access to a parking lot on an adjacent lot.
 - 5. Structures connecting structures on adjacent lots.
 - 6. Public utility structures located in or adjacent to a highway right-of-way, with the approval of the DRB as a Conditional Use.
- B. The building setback minimum from a town- or state-owned highway right-of-way shall be either:
 - 1. That prescribed in the zoning district in which the structure is located, or
 - 2. With the approval of the DRB as a Conditional Use, the actual distance that a building on an adjacent lot is setback from the street, provided that this setback maintains the character of the neighborhood and will not adversely affect public safety, traffic, parking, landscaping or utilities.

3. Within the Village District the Zoning Administrator may approve land development that varies from the minimum and/or maximum front setback if the applicant can demonstrate that the proposed setback is consistent with the average in the neighborhood, as determined from measurements of at least 4 lots in the Village zoning district and within 500 feet of the subject property.
- C. All sides of a lot adjoining a Town- or State-owned highway right-of-way shall be considered a front yard for the purposes of setback regulations.
- D. For the purpose of determining setbacks, a lot which gains access to a Town- or State-owned highway right-of-way by means of a private right-of-way shall be considered to front on the lot line where the right-of-way gives access to the lot.
- E. For a lot adjoining a Town- or State-owned highway right-of-way, the front yard setback shall be measured from the edge of the known public right-of-way. On public rights-of-way of unknown width, the front setback shall be measured from a line 25 feet from the centerline of the traveled portion of the roadway.
- F. Single-family dwellings and two-family dwellings and their accessory structures which are already existing within the setback area for a lot may be expanded without the necessity for a variance providing the expansion comes no closer to the lot line than the existing structure and the height of the addition does not exceed the maximum height normally allowed.¹
- ¹[see also Section 820.B below]
- G. Setbacks for farm structures shall be as prescribed in Section 4413(d)(2) of the Act.
[see Section 512]
- H. Setbacks within a PRD, PUD, or PED shall be those specified in the underlying zoning district, unless modified pursuant to Section 410.1.D. below.

SECTION 310 USES WITHIN ZONING DISTRICTS

Each zoning district provides for Permitted Uses and Conditional Uses. A Conditional Use requires Conditional Use Approval under Section 220 above.

310.1 Uses not Listed. Uses not listed anywhere in these Zoning Regulations may be approved upon a finding by the Development Review Board that this unlisted use is of the same general character as Permitted Uses within the district and will not be detrimental to the other uses of the district, or the Objective of the zoning districts, as defined in Section 300.

- A. When a finding is made by the Development Review Board that a use not listed anywhere in these Zoning Regulations is of the same general character as a Permitted Use within the district, the applicant may apply for a zoning permit for a Permitted Use.
- B. When the finding is made by the Development Review Board that a use not listed anywhere in these Zoning Regulations is of the same general character as a Conditional Use within the district, the applicant may apply for a zoning permit for a Conditional Use.

310.2 Prohibited Uses. Any use not designated as a Permitted Use or a Conditional Use or not meeting the criteria established in Section 310.1 above is prohibited in that zoning district.

310.3 Accessory Uses. Accessory Uses are allowed in all zoning districts.

- A. Accessory uses shall be incidental and subordinate to the Principal Use or Principal Structure on a lot.

B. Accessory uses shall not significantly alter:

1. The character of the area affected.
2. Traffic on roads and highways in the vicinity.
3. The Principal Use of the property.

C. If the Principal Use on the lot is a Permitted Use, the Accessory Use shall also be a Permitted Use. If the Principal Use on the lot is a Conditional Use, any Accessory Use shall be a Conditional Use and therefore require Conditional Use Approval.

D. An Accessory Use may be permitted on a lot adjoining, or across the street from, the Principal Use provided the Accessory Use receives Conditional Use Approval from the DRB.

310.4 Secondary Uses. Secondary Uses are permitted as Conditional Uses in all districts in order to provide for a limited, sensible, mixed use of properties. Conditional Use Approval and a Zoning Permit are always required. As provided in Subsection D below, Site Plan Approval may be required. In order for a use to be allowed as a Secondary Use, it shall meet the following standards:

A. Number of Secondary Uses Allowed.

1. In Conservation, Resource, and Rural Residential zoning districts, only 1 Secondary Use may be allowed on a lot.
2. In Village and Multiple Use zoning districts, one or more Secondary Uses may be allowed on a lot.

B. The Secondary Use shall only be allowed if it is listed as a Permitted Use, a Conditional Use, or a Use Not Listed¹ in the zoning district in which the lot is located. Regardless of whether it is a Permitted Use or a Conditional Use, Conditional Use Approval shall be obtained from the DRB for the proposed Secondary Use.

¹[see Section 310.1 above]

C. The Secondary Use shall meet all the requirements for it as specified in the district (e.g., setbacks, parking, landscaping, etc.). However, no additional lot area is required for a Secondary Use.

D. Site Plan Approval is required for any Secondary Use which would require Site Plan Approval as a Principal Use, and the Development Review Board may review the use of the entire property in this context.

E. A Home Occupation shall not be considered a Secondary Use.¹

¹[See Preamble to Section 502 below]

320 ZONING DISTRICTS

The following tables establish the Objectives of each of the zoning districts, list the Permitted Uses and Conditional Uses allowed in each district, and set forth the Dimensional Requirements that apply in each district.

[Note: The abbreviation “sq. ft.” in the following tables means “square feet of Floor Area.”]

[Note: When a Residential Care/Group Home serves more than 8 people or a Child Care Facility serves more than 6 people, it becomes a Conditional Use: see Section 505.]

320.1 Conservation Districts (CN)

A. DISTRICT OBJECTIVES:

Conservation Districts are defined as large, essentially undeveloped areas which may lack access to improved public roads or public utilities and services; they are predominantly forested with substantial physical limitations to development. Substantial agricultural lands are also included, to preserve the viability of agriculture for its contributions to the regional economy and for its visual aesthetics.

Conservation districts shall be used principally for agriculture, forestry, recreation, and open space. They shall be withheld from intensive development until there is a demonstrated public need for their development, and until public utilities and services can be provided to these areas at a reasonable cost.

Planned Residential Developments and Planned Educational Developments are allowed with the approval of the Development Review Board. Planned Unit Developments are not allowed.

B. PERMITTED USES:

Accessory Use to a Permitted Use	Dwelling, Single- or Two-family
Agriculture	Forestry
Conservation	Home Occupation
Child Care Facility	Residential Care/Group Home

C. CONDITIONAL USES:

Accessory Use to a Conditional Use	Extraction of Earth Resources/Quarrying
Bed & Breakfast	Home Industry
Cemetery	Municipal Utility or Safety Related Facility
Community Facility	Recreation, Outdoor
Dwelling, Three Family	Resource Industry
Educational Institution	Secondary Use
	Wireless Telecommunications Facility

D. DIMENSIONAL REQUIREMENTS.

Lot area minimum	27 acres
Lot area minimum for a Single- or Two-Family Dwelling	27 acres
Lot area minimum for each additional dwelling beyond 2	10 acres
Lot width/lot depth minimum	600 feet
Building setback minimum from Town or State highway rights-of-way	15 feet
Setback minimum from all other lot lines	40 feet

320.2 Resource Districts (RS)

A. DISTRICT OBJECTIVE:

Resource Districts shall be used primarily for agriculture, forestry, recreational and open space uses, and low-density housing. They shall be developed for residential uses only at densities low enough to protect their resource values.

Planned Residential Developments and Planned Educational Developments are allowed with the approval of the Development Review Board. Planned Unit Developments are not allowed.

B. PERMITTED USES:

Accessory Use to a Permitted Use	Dwelling, Single- or Two-family
Agriculture	Forestry
Conservation	Home Occupation
Child Care Facility	Residential Care/Group Home

C. CONDITIONAL USES:

Accessory Use to a Conditional Use	Kennel
Bed & Breakfast	Mobile Home Park
Cemetery	Motor Vehicle Service Station
Community Facility	Municipal Utility or Safety Related Facility
Dwelling, Four-family	Nursing Home
Dwelling, Three-family	Recreation, Outdoor
Educational Institution	Resource Industry
Extraction of Earth Resources/Quarrying	Secondary Use
Home Industry	Wireless Telecommunications Facility

D. DIMENSIONAL REQUIREMENTS:

Lot area minimum	10 acres
Lot area minimum for each single or two-family dwelling	10 acres
Lot area minimum for each additional dwelling beyond 2	5 acres
Lot width/lot depth minimum	400 feet
Building setback minimum from Town or State highway rights-of-way	15 feet
Building setback minimum from all other lot lines	40 feet

320.3 Rural Residential District (RR)

A. DISTRICT OBJECTIVE:

Rural Residential Districts should be used to accommodate a major proportion of the growth of permanent and vacation homes in Putney. The development of Rural Residential areas shall not damage the resource values shown on the Areas of Special Consideration map. Agriculture, forestry and open space uses within these areas shall be maintained and encouraged.

Random location of commercial or industrial uses in the Rural Residential areas must be discouraged; where these uses are allowed, they shall be carefully controlled to avoid strip development, unreasonable burdens on town roads and services, and other adverse impacts.

Planned Residential Developments, Planned Unit Developments, and Planned Educational Developments are allowed with the approval of the Development Review Board.

B. PERMITTED USES:

Accessory Use to a Permitted Use	Dwelling, Single- or Two-Family
Agriculture	Forestry
Conservation	Home Occupation
Child Care Facility	Residential Care/Group Home

C. CONDITIONAL USES:

Accessory Use to a Conditional Use	Mobile Home Park
Bed & Breakfast	Motor Vehicle Service Station
Boarding, Rooming House, or Inn	Municipal Utility or Safety Related Facility
Cemetery	Nursing Home
Community Facility	Office
Contractor's Yard	Recreation, Outdoor
Dwelling, Multi-Family (3 or more)	Resource Industry
Educational Institution	Restaurant
Extraction of Earth Resources/Quarrying	Retail Business or Service <2,500 sq. ft.
Garden/Farm Supply or Nursery	Secondary Use
Home Industry	Trailer/RV Campground or Tent Sites
Kennel	Wholesale Business <10,000 sq. ft.
	Wireless Telecommunications Facility

D. DIMENSIONAL REQUIREMENTS:

Lot area minimum	2 acres
Lot area minimum for each single- or two-family dwelling	2 acres
Lot area minimum for each additional dwelling beyond 2	1 acre
Lot width/lot depth minimum	200 feet
Building setback minimum from Town or State highway rights-of-way	15 feet
Building setback minimum from all other lot lines	20 feet

320.4 Village Residential District (VR)

A. DISTRICT OBJECTIVE:

The purpose of this District is to provide attractive village neighborhoods of relatively concentrated residential development. The District consists of existing residential development along Westminster Road north of the intersection with Signal Pine Road, and on the west of Old Route 5. These areas are not currently served by municipal water or sewer but are within areas of logical future extension. The existing development is residential in character and therefore new development should complement the building dimensions and orientation, pedestrian facilities, and vehicular accesses that are already in existence. Planned Residential Developments, Planned Unit Developments, and Planned Educational Developments are allowed with the approval of the Development Review Board.

C. PERMITTED USES:

Accessory Use to a Permitted Use	Forestry
Agriculture	Home Occupation
Church	Office <2,500 sq. ft.
Conservation	Recreation, Indoor <2,500 sq. ft.
Child Care Facility	Residential Care/Group Home
Dwelling, Single- or Two-Family	Retail Business or Service <2,500 sq. ft.
Dwelling, Three-Family	Theatre/Cultural Center <2,500 sq. ft.
Dwelling, Four-Family	Wholesale Business <2,000 sq. ft.

D. CONDITIONAL USES:

Accessory Use to a Conditional Use	Mobile Home Park
Bar, Tavern	Motor Vehicle Service Station
Bed & Breakfast	Municipal Utility or Safety Related Facility
Boarding, Rooming House, or Inn	Museum
Cemetery	Nursing Home
Community Facility	Office > 2,500 sq. ft.
Conference Center	Recreation, Indoor > 2,500 sq. ft.
Contractor's Yard	Recreation, Outdoor
Dwelling, Multi-family	Resource, Industry
Educational Institution	Restaurant
Extraction of Earth Resources/Quarrying	Retail Business or Service 2,500 – 30,000 sq. ft.
Garden/Farm Supply or Nursery	Secondary Use
Home Industry	Theater/Cultural Center > 2,500 sq. ft.
Hotel, Motel	Wholesale Business 2,000 to 30,000 sq. ft.
Kennel	Warehouse/Storage to 30,000 sq. ft.
Manufacturing, Packaging or Processing	Wireless Telecommunications Facility

E. DIMENSIONAL REQUIREMENTS:

	<u>Sewered Lot</u>	<u>Non-Sewered</u>
Lot area minimum	20,000 sq. ft.	1 Acre
Lot area minimum for each single, two, or three-family dwelling	20,000 sq. ft.	1 Acre
Lot area minimum for each additional dwelling beyond 3	10,000 sq. ft.	25,000sq. ft.
Lot width/lot depth minimum	125 feet	125 feet
Building setback minimum from Town or State highway rights-of-way	10 feet	10 feet
Building setback minimum from all other lot lines	10 feet	10 feet

320.5 VILLAGE DISTRICT (V)

A. DISTRICT OBJECTIVE:

The Village District is established to preserve the existing character of the high density, mixed use area and to encourage a prosperous and attractive town center for shopping, employment and community activities. The Village District is defined as the existing village and includes additional lands which appear suitable for future village growth and which may be eventually served by the municipal sewage disposal system. These lands are convenient to the existing village, will offer few or slight limitations for development, and can be further developed for village uses without causing undue damage to resource values. Planned Educational Developments are allowed with the approval of the Development Review Board.

B. PERMITTED USES:

Accessory Use to a Permitted Use

Agriculture

Church

Conservation

Child Care Facility

Dwelling, Single- or Two-Family

Dwelling, Three-Family

Dwelling, Four-Family

Forestry

Garden/Farm Supply or Nursery

Home Occupation

Office

Recreation, Indoor

Recreation, Outdoor

Residential Care/Group Home

Restaurant

Retail Business or Service <2,500 sq. ft.

Theater/Cultural Center

Wholesale Business <2,000 sq. ft.

C. CONDITIONAL USES:

Accessory Use to a Conditional Uses

Bar, Tavern

Bed & Breakfast

Boarding, Rooming House, or Inn

Cemetery

Community Facility

Conference Center

Contractor's Yard

Dwelling, Multi-family

Educational Institution

Extraction of Earth Resources/Quarrying

Home Industry

Hotel, Motel

Kennel

Manufacturing, Packaging or Processing

Mobile Home Park

Motor Vehicle Fuel Station

Motor Vehicle Sales

Motor Vehicle Service Station

Municipal Utility or Safety Related Facility

Museum

Nursing Home

Resource Industry

Retail Bus. or Service 2,500 - 30,000 sq. ft.

Secondary Use

Warehouse/Storage to 30,000 sq. ft.

Wholesale Business 2,000 to 30,000 sq. ft.

Wireless Telecommunications Facility

D. DIMENSIONAL REQUIREMENT	<u>Town Water and Sewer</u>	<u>Sewered Lot</u>	<u>Non-Sewered Lot</u>
Lot area minimum	10,000 sq. ft.	15,000 sq. ft.	40,000 sq. ft.
Lot area minimum for each one, two, or three-family dwelling	10,000 sq. ft.	15,000 sq. ft.	40,000 sq. ft.
Lot area minimum for each additional dwelling beyond 3		5,000 sq. ft.	25,000 sq. ft.
Lot width/lot depth minimum		80 feet	80 feet
Building setback minimum from Town or State highway rights-of-way		0 feet	0 feet
Building setback maximum from Town or State highway rights-of-way		50 feet	50 feet
Building setback minimum from all other lot lines		10 feet	10 feet

320.6 MULTIPLE USE DISTRICT (MU)

A. DISTRICT OBJECTIVE:

The purpose of the Multiple Use District is to provide for a well-planned and coordinated development of a diversity of uses. In addition, this district seeks to blend the varied existing uses with future growth. In order to preserve the general character of the surrounding area, these developments shall attempt to minimize strip development, share access and parking, and where deemed appropriate, provide for green strips and landscaping.

Planned Residential Developments, Planned Unit Developments, and Planned Educational Developments are allowed with the approval of the Development Review Board.

B. PERMITTED USES:

Accessory Use to a Permitted Use

Agriculture

Conservation

Child Care Facility

Dwelling, Single- or Two-Family

Forestry

Garden/Farm Supply or Nursery

Home Occupation

Office

Recreation, Indoor

Recreation, Outdoor

Residential Care/Group Home

Restaurant

Retail Business or Service <10,000 sq. ft.

Wholesale Business <10,000 sq. ft.

C. CONDITIONAL USES:

Accessory Use to a Conditional Use

Bar, Tavern

Bed & Breakfast

Boarding, Rooming House, or Inn

Dwelling, 3-Family and 4-Family

Cemetery

Community Facility

Contractor's Yard

Educational Institution

Extraction of Earth Resources/Quarrying

Home Industry

Hotel, Motel

Kennel

Light Industry

Manufacturing, Packaging or Processing

Mobile Home Park

Motor Vehicle Fuel Station

Motor Vehicle Sales

Motor Vehicle Service Station

Municipal Utility or Safety Related Facility

Museum

Nursing Home

Resource Industry

Retail Business or Service 10,000 to 30,000 sq. ft.

Secondary Use

Theater/Cultural Center

Trailer/RV Campground or Tent Sites

Trucking or Freight Terminal

Warehouse/Storage to 30,000 sq. ft.

Wholesale Business 10,000 to 30,000 sq. ft.

Wireless Telecommunications Facility

D. DIMENSIONAL REQUIREMENTS:

Lot area minimum

2 acres

Lot area minimum for each single- or two-family dwelling

2 acres

Lot area minimum for each dwelling beyond two

2 acres

Lot width/lot depth minimum

200 feet

Building setback minimum from Town or State highway rights-of-way

25 feet

Building setback minimum from all other lot lines

30 feet

ARTICLE IV
PLANNED RESIDENTIAL DEVELOPMENT,
PLANNED UNIT DEVELOPMENT, and
PLANNED EDUCATIONAL DEVELOPMENT

SECTION 400. PURPOSE AND APPLICABILITY

Planned Residential Development(s) (PRD), Planned Unit Development(s) (PUD), and Planned Educational Development(s) (PED) are permitted in accordance with Section 4417 of the Act. They allow landowners to present the Development Review Board with development plans that differ from the basic requirements of the Zoning Regulations in cases where a creative configuration makes sense.

400.1 Purpose: The purpose of the PRD, PUD, and PED regulations are:

- A. to encourage maximum flexibility of design and development of land in such a manner as to promote the most appropriate use of land;
- B. to facilitate sensible layout of streets and utilities;
- C. to encourage the preservation of natural resources, scenic areas, historic resources, and open land;
- D. to provide for the development of lots which for physical, topographical, or geological reasons could not otherwise be developed;
- E. to encourage an environment in harmony with surrounding development;
- F. PRDs may provide for greater opportunities for varied and affordable housing;
- G. PUDs may provide for a mixture of compatible uses;
- H. The PED may provide maximum flexibility for the development or expansion of educational facilities;
- I. All three categories of development are designed to allow for multiple-use and/or multiple-structure projects which may not conform to the zoning district in which they are found, but which offer a creative alternative that would be desirable to the Town in a manner consistent with the Putney Town Plan.

400.2 Specific Uses: Specific uses proposed as part of PRDs, PUDs, and PEDs shall be limited to those uses allowed in the underlying zoning district in which the PRD, PUD, or PED is located. Commercial, educational, and public facilities may be allowed which are designed to serve the proposed development. Uses not listed in the Zoning Regulations may be allowed if approved pursuant to Section 310.1 above.

400.3 Changes to Use: Should a PED cease to function for educational purposes, before a change of use may occur, the facility must pass through the application process for a PRD or, if allowed in the underlying zoning district, a PUD. [Note: Existing PED's are Landmark College, the Grammar School, the Putney School, and the Greenwood School]

410 STANDARDS FOR REVIEW

410.1 Approval Requirements: In order for the Development Review Board to approve the PRD, PUD, or PED application, the following standards shall be met:

- A. The PRD, PUD, or PED shall be consistent with the Town Plan.

- B. All PRD, PUD, or PED applications shall be subject to the standards of Site Plan Approval, Conditional Use Approval, and be reviewed as major subdivisions under the Putney Subdivision Regulation, regardless of whether the project is considered a subdivision. Review of all standards can occur simultaneously with consideration of the PRD, PUD, or PED application. Where a conflict occurs between the Zoning Regulations and the Subdivision Regulations, the Zoning Regulation shall take precedence.
- C. The overall density of the project shall not exceed the number of residential and non-residential structures which could be constructed if the land were subdivided into lots in accordance with district lot area requirements, except as follows:
1. For a PRD, the total allowable number of dwelling units may be increased by the Development Review Board by up to 25% as an incentive for projects which provide unique benefits to the community as a whole, such as long-term affordable housing, public parks, or the rehabilitation of a problem site.
 2. Dwelling density limitations shall not apply to a PED.
- D. All zoning requirements of the district shall be met, except for the following, which may be modified or waived: lot area, lot width/depth minimum, and setbacks.¹
- ¹[see 300.9.H]
- E. The PRD, PUD, or PED shall be an effective and unified treatment of the development possibilities on the project site, and the development plan shall make appropriate provision for the preservation of:
1. stream banks
 2. steep slopes
 3. wetlands
 4. soils unsuitable for development
 5. forested areas
 6. outstanding natural, topographic, and geologic features
 7. historic resources
 8. scenic resources
 9. unique features
 10. Shorelands [see 710.6]
- F. The development plan shall be proposed over a satisfactory period of time in order to ensure adequate municipal facilities and services. Each phase of development must include the required parking spaces, landscaping, and utility areas necessary for creating and sustaining a desirable and stable environment. These components must be installed and completed for each phase prior to the commencement of construction of a subsequent phase, unless otherwise approved by the Development Review Board. The Development Review Board may require the developer to secure a performance bond, letter of credit, escrow account, or equivalent surety in an amount sufficient to secure the full completion of such improvements.
- G. Where a PRD, PUD, or PED includes primary agricultural soils, the development may be required to make provisions for the use of a portion of such land for agricultural purposes and/or for maintaining its open, scenic quality. Examples of such provisions include minimizing the land that is developed with impervious surfaces, placing the land in common/useable open space to facilitate farming, and annual mowing of meadowland.
- H. Mixed uses shall be configured so as to be compatible for residents of the project.
- I. Where the character of the development on adjacent properties demands, the Development Review Board may require provision of a buffer zone, which must be kept free of buildings. Landscaping, screening, or protection by natural features may be required to minimize adverse effects on surrounding areas.
- J. The development shall result in an efficient use of land resulting in small networks of utilities and streets.

- K. **Open Space.** Lands in a PRD, PUD, or PED specifically designated for agriculture, forestry, parks, open space, or other collective uses, must be protected and maintained for their intended purposes. One method for accomplishing this is to convey development rights to one of the following: to the Town, at the Town's discretion; to a funded trust; to a homeowner's association; or via covenants or deed restrictions, to the individual property owners in the PRD, PUD, or PED. Where appropriate, the Development Review Board may approve alternate methods of protecting and maintaining these lands. Any method must include provisions for guaranteeing the continued use of the land for its intended purposes, continuance of proper maintenance of the open space, and a source of funds for proper open space maintenance.

420 APPLICATION PROCEDURE

- 420.1 Pre-application Conference.** One or more pre-application conferences are encouraged at which the Development Review Board and interested municipal officials may exchange information with the applicant and understand the nature and scope of the proposal and need for municipal services.
- 420.2 Development Plan Application.** The applicant shall file with the Zoning Administrator an application for approval of a PRD, PUD, or PED. The application shall include fees, site plans, a subdivision plat (if applicable), a Narrative Master Plan, and other supporting data.
- 420.3 Narrative Master Plan.** A Narrative Master Plan, the official development plan, shall be submitted to the Development Review Board. The Narrative Master Plan shall state the objective, uses, area and dimensional standards, phasing, and any other land use standards appropriate to the planned development and necessary to meet the objectives and intent of the Putney Town Plan, the Putney Zoning Regulations, and the purposes of the PRD, PUD, and PED Regulations stated in Section 400.1 above. The Master Plan shall list all proposed modifications to the Zoning Regulations.
- 420.4 Site Plan.** For specific uses and structures within the development, a site plan shall be submitted to the Development Review Board meeting the requirements of Section 240.1 above and in addition showing the location, height, and spacing of buildings; open spaces and landscaping; water and sewage facilities; those unique natural or manmade features listed in Section 410.1.E above; and physical features of the site. The Development Review Board may modify the required information to be submitted.
- 420.5 Determination.** Within 45 days after the close of the final public hearing, the Development Review Board shall approve, approve with conditions, or deny the PRD, PUD, or PED application. Site Plan Approval for specific uses and structures within the development (and, if applicable, subdivision approval) may be granted simultaneously with the approval of the PRD, PUD, or PED application. The applicant shall be notified by certified mail of the Development Review Board's decision.
- 420.6 Filing.** Within 180 days of the Development Review Board's approval of the PRD, PUD, or PED, the Narrative Master Plan and (if applicable) the subdivision plat shall be recorded by the owner, at the owner's expense, in the office of the Town Clerk.

ARTICLE V GENERAL REGULATIONS

SECTION 500 REQUIRED NOTIFICATION TO STATE AGENCIES

In accordance with Section 4448(c) of the Act, the applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state related permits that may be required.

Pursuant to Section 4424 of the Act, no zoning permit for Land Development may be granted for new construction or the development of land in any area designated as flood plain by the Vermont Department of Water Resources prior to the expiration of a period of thirty (30) days following the submission of a copy of the application to the Agency of Natural Resources.

SECTION 501 REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR WATERS

501.1 Land Development: In accordance of Section 4412(3) of the Act and except as provided below, no Land Development may be allowed on lots which do not either have frontage on a State- or Town-maintained road (except I-91) and Putney State Highway (unless the VT Agency of Transportation has issued an access permit to a lot from one of these two highways), or the Connecticut River, or safe and adequate access to such a road or waters by a permanent easement or right-of-way of record at least 50 feet in width. The Development Review Board may approve a reduction in width to a minimum of 20 feet provided:

- A. Safe and adequate access for vehicles, including emergency apparatus, will exist with such reduced width.
- B. Adequate accommodations are provided for any other requirements, such as utilities, drainage, snow storage, landscaping or screening, etc.
- C. A reduced width will not hinder the future development of lands to the rear.

501.2 Right of way: Land Development on a lot which lot requires access via a Class 4 Town highway or trail¹ right-of-way shall be allowed only as follows:

¹(as defined in 19 VSA 301 & 302)

- A. The use of a Class 4 Town highway or trail right-of-way for access to the lot must be approved by the Putney Board of Selectpeople.
- B. Pursuant to 19 VSA 708 and 711, the Putney Board of Selectpeople may condition their approval, if granted, by requiring that the lot owner upgrade the Class 4 Town highway or trail to Class 3 Town-highway standards at the lot owner's expense. Nothing in this section shall be construed to require the Town to maintain the Class 4 highway or trail, once upgraded.

501.3 Vehicular and Pedestrian Access: All land being developed or substantially improved, other than lots accessed from only the Connecticut River, must provide safe vehicular access from the street that accommodates pedestrian and bicycle traffic.

- A. Village and Village Residential Zoning Districts - Lots shall have one access point. Additional access points may be approved only if required to accommodate the physical conditions on the property, meet needs unique to the proposed development, to provide emergency access, or to provide adequate traffic circulation within the site.

1. The Development Review Board shall approve the location and number of access points for land

development subject to Site Plan Review.

2. The Zoning Administrator shall approve the location and number of proposed access points for land development not subject to Site Plan Review based on the criteria listed in 501.3(A).

- B. Shared access between adjacent properties is strongly encouraged.
- C. New development on lots adjacent to those served by an existing sidewalk or walkway system, and which could be served by a logical extension of the walkway, shall provide a pedestrian path of similar construction along the street frontage of the subject property connecting to the existing system, unless otherwise recommended by the Putney Highway Department Superintendent.
 1. New development shall minimize the number of crossings of existing sidewalks or walkways.
 2. Curb ramps and crosswalks must be provided where access bisects public sidewalks or walkways.
 3. Public sidewalks and walkways must be constructed in accordance with VTrans' design specifications or Putney Highway Department requirements.

SECTION 502 HOME OCCUPATION

Pursuant to Section 4412(4) of the Act, no regulation herein is intended to infringe upon the right of any resident to use a portion of a dwelling or to use an accessory structure or structures for an occupation which is customary in residential areas and which does not change the character thereof.

- A. When it is unclear if a commercial activity is a Home Occupation or a Home Industry, the Zoning Administrator will make the determination.
- B. A zoning permit shall be required to conduct a Home Occupation. Site Plan Approval and/or Conditional Use Approval shall not be required.
- C. There shall be no limit on the floor area of the dwelling or accessory structures devoted to the Home Occupation.
- D. A commercial activity shall be considered a Home Occupation protected under Section 4412(4) of the Act only if it meets the following criteria:
 1. Only full-time residents of the dwelling may be employed in the Home Occupation. There shall be no outside employees.
 2. The commercial activity shall be carried on entirely within the dwelling or within accessory structures.
 3. There shall be no exterior display of products, unscreened exterior storage of equipment or materials, or other variation from the residential character of the lot.
 4. Traffic shall not be generated in consistently greater volumes than would normally be expected in the neighborhood.
 5. Delivery to or from the Home Occupation shall not customarily be made by tractor trailer.
 6. Sufficient parking is provided off-street to accommodate both the residential use and Home Occupation use of the lot.
 7. The Home Occupation shall not generate noise, odor, fumes, vibration, excessive lighting, electrical interference, or smoke which would adversely affect the residential character of the neighborhood in which it is located.

8. Only articles which are made or grown on the lot shall be sold on the lot.
9. Materials and processes used in the Home Occupation shall not create any undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicants.

SECTION 503 HOME INDUSTRY

A Home Industry is allowed in all districts. A Home Industry is a use conducted in the residence or accessory structures or outside on a lot where the resident is the principal proprietor and no more than two non-residents are employed.

- A. When it is unclear if a commercial activity is a Home Occupation or a Home Industry, the Zoning Administrator will make the determination.
- B. Conditional Use Approval, Site Plan Approval, and a zoning permit shall be required to conduct a Home Industry.
- C. A commercial activity or business shall be considered a Home Industry if it meets the following criteria:
 1. The Home Industry may be carried on within the dwelling or within an accessory structure or structures or outside on a lot.
 2. The principal operator of the business or activity shall be a full-time resident of the dwelling.
 3. No more than two full time employees (or the equivalent) who are not full-time residents of the dwelling are allowed.
 4. Exterior displays and exterior storage of materials shall be permitted only as allowed by the Development Review Board.
 5. Subject to the limitations set by the Development Review Board, products of the Home Industry may be displayed and sold from the dwelling, from an accessory structure, or from an outdoor stand.
 6. The Home Industry shall not generate noise, odor, fumes, vibration, excessive lighting, electrical interference, or smoke which would adversely affect the residential character of the neighborhood in which it is located.
 7. Materials and processes used in the Home Industry shall not create any undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicants.
 8. Sufficient parking shall be provided off-street to accommodate both the residential use and Home Industry use of the lot.
 9. Traffic shall not be generated in consistently greater volumes than would normally be expected in the neighborhood.

SECTION 504 EQUAL TREATMENT OF HOUSING

Pursuant to Section 4412(1) of the Act, the following regulations are provided to assure equal treatment of housing:

- A. Except as provided in Section 4414(E) and (F) of the Act, no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

- B. No zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in Section 4382(c) of the Act.
- C. No provision of this chapter shall be construed to prevent the establishment of mobile home parks pursuant to Chapter 153 of Title 10.
- D. **Accessory Dwellings.** These regulations shall not have the effect of excluding as a permitted use one Accessory Dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An Accessory Dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:
 - 1. The property has sufficient wastewater capacity.
 - 2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, or 800 square feet, whichever is greater.
 - 3. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when the following is involved:

- a. A new accessory structure, constructed after the enactment of these bylaws.

SECTION 505 RESIDENTIAL CARE/GROUP HOME and CHILD CARE FACILITIES

A. Residential Care/Group Homes.

- 1. Pursuant to Section 4412(1)(G) of the Act, a state licensed or registered residential care home or group home, serving not more than 8 persons who are developmentally disabled or physically handicapped shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be considered a permitted use if it locates within 1,000 feet of another existing or permitted home. A Zoning Permit shall be required. Site Plan Approval is not required.
- 2. A state licensed or registered residential care home or group home serving more than 8 persons who are developmentally disabled or physically handicapped shall be allowed as a Conditional Use in all zoning districts. Conditional Use Approval, Site Plan Approval, and a zoning permit shall be required.

B. Child Care Facilities.

- 1. Pursuant to Section 4412(5) of the Act, a state registered or licensed child care home serving 6 or fewer children shall be considered by right to constitute a permitted single-family residential use of property. A zoning permit is not required. Site Plan Approval is not required.
- 2. A state licensed or registered child care facility serving more than six (6) children shall be allowed as a Conditional Use in all zoning districts. Conditional Use Approval, Site Plan Approval, and a zoning permit shall be required.

C. Other Residential Care/Group Homes and Day Care Facilities

- 1. A state registered or licensed residential care or group home serving 8 or fewer people who are not developmentally disabled or physically handicapped or a day care home or facility serving 6 or fewer people who are not children shall be considered by right to constitute a permitted single-family residential use of property. A zoning permit is not required. Site Plan Approval is not required.

2. A state licensed or registered residential care or group home serving more than 8 people who are not developmentally disabled or physically handicapped or a day care home or facility serving more than 6 people who are not children shall be allowed as a Conditional Use in all zoning districts. Conditional Use Approval, Site Plan Approval, and a zoning permit shall be required.

SECTION 506 HEIGHT

506.1 Measurement Standard: Except as provided below, structures shall not exceed 35 feet in height. Building height shall be measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat or mansard roofs, or to the midpoint between the eaves and ridgeline for other roofs, or to the highest point of a structure without a roof such as an antenna or a tower. Rooftop apparatuses such as chimneys, vents, air conditioning units, Type B Wireless Telecommunications Facilities¹, and solar collectors shall not be included in the measurement.

¹[see Section 607]

506.2 Conditional Use Approval: The DRB may grant Conditional Use Approval for structures (including Wireless Telecommunications Facilities¹ and windmills) which exceed 35 feet in height, provided the structure meets the requirements of Section 220 above and provided the additional height:

¹[see Section 607]

- A. Will not create a hazard; and
- B. Will not cause the structure to be disruptive to its surroundings.
*Site Plan Approval and a Zoning Permit shall also be required.

506.3 Wireless Telecommunications Facility: The height of Wireless Telecommunications Facilities (including antennas and towers for the support of antennas) shall be governed by Zoning Regulation 607.

SECTION 507 DEMOLITION, BURNING, AND ABANDONMENT OF STRUCTURES

Except as provided below, within 6 months after any temporary or permanent building or structure has been damaged, demolished, abandoned, left structurally unsound, or destroyed, all scrap, damaged, or unsafe material shall be removed from the site, and the excavation thus remaining shall be covered over, filled to the normal grade or fenced.

- A. The cost of removal and fill shall be borne by the lot owner.
- B. Conditional Use Approval may be granted by the DRB for an extension of time.
- C. The removal of Wireless Telecommunications Facilities shall be governed by Zoning Regulation 607.18.

SECTION 508 GENERAL PERFORMANCE STANDARDS

In accordance with Section 4414(5) of the Act, the following Performance Standards together with all applicable State standards shall be met by all uses in all districts on a continuing basis. The Zoning Administrator shall decide whether a proposed or existing use meets the standards. A use which exceeds these standards may be permitted upon receipt of Conditional Use Approval to do so.

No existing or proposed use, under normal conditions, shall cause, create, or result in:

- A. Persistent, repetitive, or reoccurring noise which represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the reasonable use of the surrounding lots;
- B. Noticeable, clearly apparent vibration beyond the property on which the use is located during normal operations of a use so as to be incompatible with the reasonable use of the surrounding area.

- C. Persistent smoke, dust, odors, noxious gases or other forms of air pollution, which constitute a nuisance or recognized health hazard beyond the property on which the use is located so as to be incompatible with the reasonable use of the surrounding area. However, customary agriculture practices shall not be restricted under this subsection.
- D. Releases of heat, cold, moisture, mist, fog, precipitation, or condensation likely to be detrimental to public safety, health or welfare beyond the property on which the use is located so as to be incompatible with the reasonable use of the surrounding area.
- E. Electronic emissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which the use is located.
- F. Glare, lights or reflections which are a nuisance to traffic or neighboring properties, or which are detrimental to the public safety, health or welfare.
- G. Liquid or solid wastes or refuse which cannot be disposed of by available or existing methods, or which place an unreasonable burden on municipal facilities, or which if buried or allowed to seep into the ground will in any way endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, plants, or animals.
- H. Undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicant's or lot owner's, or which result in a significantly increased burden on municipal facilities, such as the Fire Department.
- I. Soil erosion and/or the discharge of sediment into a brook, stream, river, culvert, or catch basin. The smallest practical area of land should be exposed at any one-time during development. Lands should not be left exposed during the Winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required to protect areas exposed during development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall maximize the amount of natural drainage which can infiltrate into the soil and minimize direct run-off onto adjoining streets, properties, and watercourses or water bodies. Areas of grading, cut or fill and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sedimentation. All changes in grade shall be controlled so as not to cause a nuisance or damage to other properties or erosion of soil.
- J. A significant increase in any storm water flow levels beyond the property on which the development is located. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters. The exception of this rule is discharge into an approved storm drainage system. The Development Review Board may require that the drainage system be designed and installed under the direction of a certified engineer. Any changes in grading shall be made so that runoff is directed to established drainage courses and will not cause ponding or flooding of other properties or exceed the capacity of downstream drainage facilities.

SECTION 509 LANDSCAPING, SCREENING, AND SITE LIGHTING

- A. The Development Review Board under its Conditional Use Approval, Site Plan Review and PRD/PUD/PED review authority is responsible for assessing the adequacy of landscaping and screening involved with site development. Properly planned and installed landscaping and screening can maintain community character and reduce the potential for conflicts between different, adjoining land uses. It can also help to reduce noise and glare, and can provide privacy and separation.
- B. Landscaping, where required under these regulations, may take the form of shade trees, deciduous vegetation, shrubs, evergreens, flower gardens, and well-kept grassed areas or ground cover, the species of which shall be

approved by the Development Review Board. Plant materials shall, to the extent practical, be of species indigenous to the region. The choice and placement of plantings and screening in parking areas shall take into account the special hazards of salt, vehicles, and maintenance equipment and the need to provide adequate snow removal and storage.

- C. All required landscaping and screening shall be installed before issuance of a Certificate of Occupancy, or as otherwise approved by the Development Review Board during Site Plan Review.
- D. The Development Review Board shall consider the impact of landscaping and screening on the general appearance of the area and preservation of the zoning district's character.
- E. It is the responsibility of the lot owner to comply with the landscaping and screening requirements. The maintenance and care of landscaping and screening is the responsibility of the lot owner and is an ongoing requirement of these Regulations.
- F. Where feasible, commercial and industrial uses shall provide a buffer strip of land which shall be maintained as a landscaped area or a natural wooded area in all setback areas. Where feasible, parking facilities should not be located within the setback areas.
- G. In any Planned Unit Development, Planned Residential Development, or Planned Educational Development, landscaping and screening shall be required as determined by the Development Review Board.
- H. Site lighting should be kept to the minimum necessary for safety. All lighting should be shielded to minimize light flowing onto adjoining properties and roadways and to minimize "skyglow." Except for that lighting necessary for safety, lights should be extinguished after the close of business hours. Lighting of high intensity and flood lighting are discouraged.
- I. Whenever possible, in discussing landscaping, screening, and lighting plans, applicants should give accurate examples based on existing sites in the Town.
- J. Landscaping for Wireless Telecommunications Facilities shall also be governed by Zoning Regulation 607.

SECTION 510 OFF-STREET PARKING SPACE REQUIREMENTS

Pursuant to Section 4414(5) of the Act, except as provided below, off-street parking spaces shall be provided as set forth below whenever any new use is established or existing use is enlarged.

510.1 General Standards:

- A. A typical parking space shall be at least 9 feet by 18 feet.
- B. Where feasible, parking spaces should not be located within setback areas.
- C. Parking spaces shall not interfere with loading dock or emergency vehicle access.
- D. Parking shall be designed to provide maximum safety and ease of traffic and pedestrian flow, while minimizing visual impact on the property and surrounding area.
- E. Where feasible, parking shall be to the side or rear of structures.
- F. Shared parking and shared curb cuts with neighboring land uses are encouraged.

510.2 Number of Parking Spaces Required

- A. Except as provided below, the number of off-street parking spaces required shall be as follows:
1. One space for each residential dwelling unit, plus half a space for each dwelling unit in excess of 2 for visitor parking.
 2. Hotels, motels, boarding houses and tourist homes: one space for each room of accommodation; one additional space for every 4 rooms of accommodation; plus one for any residential dwelling unit.
 3. Places of assembly, such as theaters, auditoriums, churches, and clubs: one parking space for each five seats in the main auditorium.
 4. Educational Institutions: one parking space for each 4 seats in the largest available assembly space or as determined by the Development Review Board.
 5. Retail and service establishments, business and professional offices: one space for each 250 square feet of floor area, excluding storage areas.
 6. Wholesale, warehouse and light industry establishments: one space for each employee on the largest shift, plus one space for each company-owned and operated vehicle, plus adequate space for customer vehicles.
 7. Restaurant, bar, and tavern: 2 spaces for each 4 seats, plus one space per employee on the largest work shift.
 8. Off-street parking for other uses shall be determined by the Development Review Board based on the number of spaces needed to accommodate the vehicles of those commonly using the premises.
- B. **Reduction or Increase in Parking Spaces Required.** If, in Site Plan Approval proceedings, the Development Review Board determines that unique or special conditions exist increasing or reducing the need for parking, it may require the provision of off-street parking spaces up to 50% more or less than the requirements in (A) above. The Development Review Board may also consider the availability of safe and adequate on-street parking and the availability of parking in municipal parking lots during times when such parking will not interfere with snow removal.
- C. **Shared Parking.** In the case of a parking lot which will be used for non-residential or mixed residential-commercial or other use, the Development Review Board may reduce the parking requirement of a project undergoing Site Plan Review by up to 80% for such uses that it determines will be generating a demand for parking during periods when other uses are not in operation, or which will share parking demand with other uses located on the same or nearby lots. The Development Review Board may also consider the availability of safe and adequate on-street parking and the availability of parking in municipal parking lots during times when such parking will not interfere with snow removal. Any such reduction shall apply to the uses specified by the Development Review Board at the time of application only. In so reducing the required number of spaces, the Development Review Board may specify that:
1. Some or all of the parking spaces reduced may be considered as Deferred Parking (see D. below).
 2. No parking spaces designated for shared parking under the provisions of this subsection shall be assigned or reserved for a particular party or use unless expressly authorized by the Development Review Board.
 3. The Development Review Board shall document precisely the calculation procedure used in determining the required number of spaces to be required under this provision. In no case shall the parking be reduced below 100% of the largest parking generator as determined under (A) above.

D. Deferred Construction of Parking Spaces.

1. When the Development Review Board determines that the actual demand for parking may be less than that required in Subsection (A) above, it may defer the construction of up to 50% of the required parking spaces until such time as it determines, after a hearing, that the spaces are needed.
2. Space for Deferred Parking shall be labeled "Future Parking" on the site plan and landscaped until needed.
3. The Development Review Board may require a letter of credit or other financial security instrument adequate to ensure that parking spaces will be constructed when they are needed.

510.3 Location of Off-Street Parking.

- A. Whenever feasible, off-street parking shall be located on the lot for which it is required.
- B. With the approval of the Development Review Board, required off-street parking spaces may be located on a lot or lots other than that lot for which they are required, provided that the following provisions are met:
 1. The passage between the parking lot and the building for which parking is being provided shall be safe and well lighted.
 2. The walking distance between the pedestrian entrance to the parking lot and the nearest public entrance to the building shall be no more than 800 feet.
 3. If the parking is to be provided on private land owned by someone other than the applicant, the applicant shall submit evidence that a lease or easement for a period equal to the proposed use has been obtained and that it will be recorded in the Town Land Records.
 4. If parking is to be provided in a public parking lot, the applicant shall submit evidence that such use can be accommodated by existing and planned facilities or propose a cost-sharing plan by which a contribution can be made for the construction of additional facilities.
- C. Any lot which accommodates required parking from another lot must retain its own required parking spaces on-site and must undergo Site Plan review simultaneously with the lot which generates the required off-street parking.
- D. **Special Needs Parking.** Parking for the disabled shall be provided in accordance with the provisions of the Americans with Disabilities Act. Safe and adequate access for the disabled shall be provided between the parking areas and access points to the building.
- E. **Drive-In Windows.** Restaurants, banks, and similar establishments with drive-in windows shall have a stacking lane for each window or remote customer service point long enough to keep the line of waiting vehicles from extending into the public right-of-way.
- F. **Stacked Parking.** Each parking space shall have access to a driveway or street. However, the Development Review Board may permit stacked parking (one vehicle parked behind another) in order to meet the minimum parking requirements where unique circumstances exist on a lot such as if the users will be residents of a single dwelling unit or employees of a single business.
- G. **Safety, Access, and Circulation.**
 1. Parking shall be designed to provide for maximum ease of traffic flow and pedestrian safety.
 2. Vehicles shall exit facing the street unless the Development Review Board finds that some other arrangement will meet the safety requirement of the site.

3. No parking space shall be used for any purpose that limits its availability for parking, such as by using the parking space for dumpsters or the storage of merchandise, unregistered or junk vehicles, or other materials.
4. Surfacing materials and drainage shall be adequate to withstand the traffic expected and ensure a firm surface during the periods of expected use.
5. Parking areas shall be adequately drained and shall be kept free of snow and ice when required for use.
6. Safe and adequate pedestrian access shall be provided between the parking areas and access points to the building.
7. The Development Review Board may require, as a condition of granting approval to a site plan, such improvements to the street network or public sidewalks as may be required to provide safe and adequate access to the parking area.

H. Visual Considerations of Parking Areas.

1. The site shall be designed and landscaped to minimize negative visual impacts and maximize safety. Landscaping and screening may be required for this purpose both within the parking lot and between it and any public road or adjacent property. Plantings shall be selected for their ability to survive under the special conditions found in a parking lot and shall be protected from damage by vehicles and maintenance equipment.
2. The outside edges of the parking lot should be delineated by curbing, fencing, changes of grade, or other means that will confine vehicles to the areas intended for parking.
3. Parking shall not be allowed on lawns unless it is demonstrated that the use of such areas will be so infrequent that the grass will not be damaged.

SECTION 511 OFF-STREET LOADING SPACE REQUIREMENTS

Pursuant to Section 4414(5) of the Act, except as provided below, where feasible, for every building hereafter erected or extended, or whenever any new use is established or existing use enlarged for the purpose of business, trade, or industry, there shall be provided off-street space for loading and unloading of vehicles as set forth below.

- A. **Size.** A loading space shall be scaled to the size of delivery vehicles expected and configured to maximize convenience for pick-up and delivery of bulk items.
- B. **Number Required.** Except as provided below, the number of loading spaces required shall be as follows:

<u>Gross Floor Area (Sq. Ft.)</u>	<u>Loading Spaces Required</u>
0 - 1,999	0
2,000 - 7,499	1
7,500 - 12,499	2
Over 12,499	As determined by the Development Review Board

- C. Required off-street loading spaces are not to be included as off-street parking spaces, except where parking spaces are not needed at the time of delivery of bulk items.
- D. **Reduction or Increase in Loading Spaces Required.** If, in Site Plan Approval proceedings, the Development Review Board determines that unique or special conditions exist increasing or reducing the need for loading spaces, it may require the provision of either more or less off-street loading spaces than the requirements in (B)

above. The Development Review Board may also consider the availability of safe and adequate on-street loading spaces.

E. Location of Off-Street Loading.

1. Where feasible, off-street loading shall be located on the lot for which it is required.
2. Off-street loading shall be located in such a way as to minimize interactions with private vehicles and pedestrians and maximize safety in entering the public way.
3. With the approval of the Development Review Board, required off-street loading spaces may be located on a lot or lots other than that for which they are required, provided that all such required off-site, off-street loading spaces are located no farther than 100' from the lot for which they are required.
4. Any lot which accommodates required loading from another lot must retain its own required loading spaces on-site, and must undergo Site Plan review simultaneously with the lot which generates the required off-street loading.

SECTION 512 ACCEPTED AGRICULTURAL AND SILVICULTURAL PRACTICES

Pursuant to 24 VSA Section 4413(d), accepted agricultural and silvicultural practices within the Town of Putney shall be governed as follows:

- A. Pursuant to Section 4413(d) of the Act, nothing in these Zoning Regulations shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures.[see also 300.8.B]
- B. Pursuant to Section 4413(d) of the Act, a person shall notify the Zoning Administrator of the intent to build a farm structure and shall abide by setbacks approved by the State of Vermont Commissioner of Agriculture, Food, and Markets. No zoning permit for a farm structure shall be required.
- C. For purposes of this section, “farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as “farming” is defined in Section 6001(22) of Title 10, but excludes a dwelling for human habitation.

SECTION 513 PUBLIC FACILITIES

Pursuant to Section 4413 of the Act, the following uses may be regulated 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.
- 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.

ARTICLE VI SPECIAL REGULATIONS

SECTION 601 MOTOR VEHICLE STATIONS

Where allowed as a Conditional Use, Motor Vehicle Fuel Stations and Motor Vehicle Service Stations shall comply with the following:

- A. All automobile parts and vehicles stored on the site for over 90 days must not be visible from the road or from the ground-floor level of occupied structures on neighboring parcels. The total number of such long-term stored vehicles shall not exceed 6. Additionally, gasoline and lubricants must be drained and properly disposed of from such vehicles and vehicle parts.
- B. There should be no more than 2 access driveways per road on which the lot has frontage. The maximum width of each access driveway should be 20 feet for one-way traffic and 35' for two-way traffic.
- C. Where feasible, a suitably curbed and landscaped area shall be maintained along all street frontage not used as a driveway.

SECTION 602 EXTRACTION OF EARTH RESOURCES & QUARRYING

In those districts where allowed as a Conditional Use, the extraction and/or quarrying and/or processing and/or removal from a lot of soil, sand, rock, gravel or minerals for sale or trade, except when incidental to construction of a parking area or building on the same lot, may be permitted only upon Conditional Use Approval, Extraction Operations Approval, Site-Reclamation Plan Approval from the Development Review Board (if applicable), and a Zoning Permit.

602.1 Extraction Operations Approval.

Any proposed extraction of earth resources shall not be approved until the Development Review Board has reviewed and granted Extraction Operations Approval in accordance with the following provisions:

- A. **Application Materials:** The following shall be submitted with any application for Extraction Operations Approval, and shall be prepared by a licensed engineer or other qualified person as determined by the Chair of the Development Review Board:
 1. A map or maps showing existing topography at contour intervals of 5' or less, all existing and proposed excavation areas, the location of all features of the site such as wooded areas, buildings, utilities, wells, walls and fences, roads, easements, wetlands and standing water, surface drainage patterns, the name of the owner of the site, the names of the owners of adjacent properties, existing and proposed access roads, parking areas, all features of the proposed extraction operation, scale, and north arrow;
 2. Cross-sections of the extraction area showing depth of extraction, temporary slope of extraction faces, elevation of the pit floor, and other areas affected by the extraction operation;
 3. A description of all equipment to be operated on the site, and the proposed location for such equipment;
 4. A description of proposed working hours and the operating season of the extraction operation;
 5. A discussion of the planned rate of extraction and the daily number of truckloads of material to be transported from the site;

6. A discussion (with drawings where appropriate) of the ways in which the extraction operation will be buffered or screened from surrounding properties and from public roads;
7. A plan for the control of storm water and erosion during the extraction period;
8. A traffic study from a qualified consultant (or other person as determined by the Chair of the Development Review Board) addressing sight distances and turning movement characteristics at the entrance to the project and the impact of anticipated traffic on the safety and congestion of surrounding roads;
9. The Development Review Board will determine whether the project provides adequate landscaping and screening.

B. Specific Standards:

1. A buffer strip of at least 25' shall be maintained around the perimeter of the site, said buffer strip to retain the original vegetation and plant materials. The Board may require supplemental plantings in order to effectively screen the extraction site and operations from adjoining properties or public roadways;
2. An area of no more than 5 acres shall be open for active extraction at any one time. Other areas shall either be retained in their original condition or be closed in accordance with the approved Reclamation Plan;
3. If the Board deems it necessary to prevent a potential safety hazard, suitable fencing may be required around the excavation area, sedimentation basins, or areas for storage of waste or equipment;
4. Except for quarries, slopes on the working face of the excavation area shall be such as to not cause unsafe conditions;
5. Days and hours of operation of the extraction site shall be determined by the Development Review Board;
6. Adequate provision shall be made for control of storm water runoff. Swales, brooks and other waterways shall be diverted upstream of the open extraction area and routed around all disturbed areas. Sedimentation basins shall be provided as needed. The volume, velocity and quality of water exiting the site shall be the same as, or better than, prior to commencement of the extraction activities;
7. Appropriate measures shall be provided for the control of dust from all extraction and processing activities as well as from hauling activities. Dust shall not adversely affect surrounding properties or public roadways;
8. Adequate sound screening by land forms and/or vegetation shall be provided to prevent noise from adversely affecting surrounding properties or public roadways;
9. Traffic to and from the extraction operation shall not cause dangerous or hazardous conditions on public roads in the area, nor shall it cause undue degradation of public roads serving the site. Particular attention shall be given to the point where the site access road intersects public roads;
10. Stumps removed from the site may be buried on-site if the burial location is not located in any flood plain. This disposal site must be identified on any approved plan and approved by the Town. If off-site stump disposal is proposed, the disposal location must satisfy all relevant State requirements;
11. Sod, loam or topsoil shall not be removed from flood plain areas;
12. The General Performance Standards shall be complied with;
13. The extraction operation shall not have an undue adverse effect of the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas.

C. Application Process:

1. Applications for operations approval for extraction of earth resources under this Section shall be filed with the Zoning Administrator on forms provided by that office;
2. The Zoning Administrator, upon determination that an application is complete, will schedule a duly warned hearing before the Development Review Board, to occur no more than 60 days from the date of receipt of the complete application;
3. Within 45 days of the completion of such hearing, the Development Review Board shall act to approve, approve with conditions, or deny the application. Failure to act within 45 days of the completion of such hearing shall be deemed approval.

602.2 Site Reclamation Plan Approval

Pursuant to Section 4407(8) of the Act, except for quarries and mines, any proposed extraction of earth resources shall not be approved until the Development Review Board has reviewed and approved a Site Reclamation Plan in accordance with the following provisions:

- A. **Application Materials:** Application to the Development Review Board for Site Reclamation Plan Approval shall include the following:
1. A map or maps showing existing topography at contour intervals of 5 feet or less, all existing and proposed excavation areas, the location of all features of the site such as wooded areas, buildings, utilities, wells, walls and fences, roads, easements, wetlands and standing water, surface drainage patterns, the name of the owner of the site, the names of the owners of adjacent properties, existing and proposed access roads, parking areas, all features of the proposed extraction operation, scale and north arrow;
 2. Cross-sections of the extraction area showing depth of extraction, temporary slope of extraction faces, elevation of pit floor, and other areas affected by the extraction operation;
 3. A discussion (with drawings where appropriate) of the ways in which the extraction operation will be buffered or screened from surrounding properties or from public roads;
 4. A plan for the reclamation of the site and a schedule of reclamation activities, including regrading and planting specifications;
- B. **Specific Standards:** Upon completion of excavation activities on all or part of the site, the site shall be returned to a stable condition according to a Reclamation Plan which satisfies the following requirements:
1. Finish grades shall not exceed 1 vertical on 2 horizontal or the slope of undisturbed areas nearby, whichever is greater;
 2. All topsoil removed for the extraction operation shall be stockpiled and used for reclamation.
 3. After finish grading, a minimum of 4 inches of topsoil shall be spread over the graded area, fertilized, seeded and mulched. The Chair of the Development Review Board may require that this planting plan be approved by the U.S. Soil Conservation Service (or another agency acceptable to the Chair of the Development Review Board). The Development Review Board may require the planting of trees and/or shrubs if it deems it necessary to preserve the aesthetic qualities of the reclaimed site;
 4. Permanent erosion control devices shall be provided where necessary. The Development Review Board may require that erosion control plans be reviewed by the U. S. Soil Conservation Service (or another agency acceptable to the Development Review Board) prior to approval;

5. The reclaimed site shall be left in a usable condition and the Reclamation Plan shall indicate potential future uses for the area;
6. A buffer strip of at least 25' shall be maintained around the perimeter of the site, said buffer strip to retain the original vegetation and plant materials. The Development Review Board may require supplemental plantings in order to effectively screen the extraction site and operations from adjoining properties or public roadways.
7. A bond, escrow account, or other form of security acceptable to the Selectboard sufficient to guarantee completion of the Reclamation Plan.

C. Application process:

1. Applications to the Development Review Board for approval of a Reclamation Plan under this Section shall be filed with the Zoning Administrator on forms provided by that office;
2. The Zoning Administrator, upon determination that an application is complete, will schedule a duly warned hearing before the Development Review Board, to occur no more than 60 days from the date of receipt of the complete application;
3. Within 45 days of the completion of such hearing, the Development Review Board shall act to approve, approve with conditions or deny the application. Failure to act within 45 days shall be deemed approval.

SECTION 603 TEMPORARY PARKING OF RECREATIONAL VEHICLES/TRAVEL TRAILERS

Except when used as a temporary home or office during construction [see Section 606 below], recreational vehicles/travel trailers shall comply with the following regulations:

- A. The owners of recreational vehicles/travel trailers may store them on their own property, or on rented or leased property, with the owner's approval.
- B. One recreational vehicle/travel trailer shall be permitted with the approval of the landowner for camping purposes not to exceed 120 days per calendar year. Occasional use by up to four additional recreational vehicles/travel trailers on the same parcel of land is allowed with landowner approval for up to ten consecutive days. The landowner may not receive financial compensation for allowing camping. This provision is intended to allow camping by family members and friends of a landowner and is intended to disallow the construction or operation of a camp business. Any recreational vehicles/travel trailers remaining longer than the time allowed herein shall be reviewed by the Zoning Administrator for conformity with the rest of these regulations, including, but not limited to, Section 604 below.
- C. A recreational vehicle/travel trailer shall not be stored within 15 feet of the side or rear lot lines, except in the Village Zoning District, where a recreational vehicle/travel trailer shall not be stored within 10 feet of the side or rear lot lines.
- D. A recreational vehicle/travel trailer shall not be used for residential occupancy for more than 6 months per year, and shall not be hooked up to any utilities for more than 6 months per year, whether in storage, parked for sale, or in use for camping.
- E. Recreational vehicles/travel trailers may be parked in a sales lot for which a zoning permit has been issued.

SECTION 604 STANDARDS FOR RECREATIONAL VEHICLE/TRAVEL TRAILER PARK OR CAMPGROUND

No person shall construct or operate a park or campground for tents, recreational vehicles/travel trailers without complying with Vermont Agency of Natural Resources regulations, Vermont Department of Health regulations, and any other applicable regulations. A zoning permit, Conditional Use Approval, and Site

Plan Approval shall be required.

The Development Review Board may require that a recreational vehicle/travel trailer park or campground shall be developed and permitted as a Planned Unit Development. In addition, the following standards apply to all recreational vehicle/travel trailer parks or campgrounds:

- A. An individual parking area, suitably surfaced, shall be provided for each campsite for recreational vehicles/travel trailers. Each campsite intended for use by a recreational vehicle/travel trailer shall have a compacted gravel surface. One parking space must be provided for each tent site, but this parking space may be located separately from the tent site.
- B. Recreational vehicles/travel trailers or tents may not be used as a primary residence for more than 4 months per year.
- C. The overall density of the recreational vehicle/travel trailer park or campground shall be as determined by the Development Review Board, but no density determination may decrease the requirement that each camp site be at least 2,500 square feet in size with a minimum width of 25 feet.
- D. For each campsite for recreational vehicles/travel trailers, and for each tent site, at least 1,000 square feet of additional land shall be set aside in common open space, exclusive of roads. Such common open space shall be accessible to all users of the park or campground.
- E. Where feasible, there shall be a buffer area of not less than 100 feet in depth between all campsites and the traveled portion of any public way. Where feasible, there shall be a buffer area of not less than 50 feet in depth between all campsites and any lot line.
- F. The boundaries of the recreational vehicle/travel trailer park or campground, including the public way buffer area, shall be landscaped with existing or planted trees and other plant materials as directed by the Development Review Board, and once established, the landscaped areas shall be maintained.
- G. Wastewater disposal, solid waste disposal, and a water supply shall be provided.
- H. Bonafide primitive or wilderness camping is specifically excluded from the requirements of these regulations, unless upon review by the Zoning Administrator it is determined that such camping is likely to create a health hazard, public nuisance, or source of pollution.

SECTION 605 MOBILE HOME PARKS

- A. A mobile home park shall comply with 10 VSA Ch. 153.
- B. A mobile home park shall obtain Site Plan Approval, Conditional Use Approval, and a zoning permit.

SECTION 606 TEMPORARY HOMES AND OFFICES DURING CONSTRUCTION

- A. Upon issuance of Conditional Use Approval from the DRB and a zoning permit by the Zoning Administrator, an accessory structure, mobile home or travel trailer may be used temporarily for a dwelling on the construction site of a new residence for which a Zoning Permit has been issued for a period not to exceed two years or until the new residence is occupied, whichever comes sooner. The DRB may grant an extension of up to one year at a time as a Conditional Use.
- B. Upon issuance of a zoning permit by the Zoning Administrator, an office trailer may be located on the construction site of a new structure for which a Zoning Permit has been issued for a period not to exceed two years or until the new structure is occupied, whichever comes sooner. The DRB may grant an extension of up to one year at a time as a Conditional Use.

607 WIRELESS TELECOMMUNICATIONS FACILITIES BYLAW¹

¹(as adopted by the Putney Selectboard on 6/10/02 and as effective on 7/1/02)

607.1 Title and Applicability

- A. Section 607 of the Putney Zoning Regulations shall be known as the "Wireless Telecommunications Facilities Bylaw" of the Town of Putney, Vermont Zoning Regulations.
- B. Wireless Telecommunication Facilities (hereinafter "Facilities") shall include all wireless telecommunication providers licensed and/or regulated by the Federal Communications Commission, and their associated equipment, towers, antennas, and buildings. They shall be classified by the Zoning Administrator into one of five types:
1. Type A. Commercial Facilities to be built and used to provide cellular telecommunications to wireless users for a fee.
 2. Type B. Non-commercial Facilities to be built and used by federally-licensed amateur radio station operators or used exclusively as non-commercial receive-only or broadcast antennas.
 3. Type C. Municipal and Emergency Services Telecommunications Facilities: Facilities to be built and used to provide telecommunications services solely for federal, state, municipal, and/or emergency services.
 4. Type D. Business Use Telecommunications Facilities: Facilities to be built and used solely as a means of communication internal to a business.
 5. Type E. Commercial Facilities to be built and used for transmitting and/or receiving television, AM/FM radio, microwave, digital, telephone, and similar forms of electronic communication (but excluding cellular telecommunication).

C. Applicability:

1. Type A. Type A Facilities are allowed as Conditional Uses in all zoning districts¹ and shall be governed by Section 607 of the Putney Zoning Regulations.
¹[see 607.6.A.1]
2. Type B. Type B Facilities shall be exempt from Section 607 of the Putney Zoning Regulations. A Type B Facility is allowed in all zoning districts without a Zoning Permit, providing it complies with the setback requirements of the zoning district in which it is located and providing it does not exceed 35' in height.¹ If it will be located within a setback area or exceed 35' in height, it shall be allowed only if it receives a Zoning Permit and Site Plan Approval. In addition, if it exceeds 35' in height, Conditional Use Approval (pursuant to Section 506.2) shall be required, and if it is within a setback area, a Variance (pursuant to Section 230) shall be required.
[¹The definition of "height" throughout this bylaw is that specified in Article IX of the Putney Zoning Regulations]
3. Type C. Type C Facilities shall be allowed in all zoning districts. They shall be considered Small Scale Facilities and shall be governed under Section 607.7 ("Small Scale Facilities") of this bylaw.
4. Type D. Type D Facilities shall be allowed in all zoning districts. They shall be considered Small Scale Facilities and shall be governed under Section 607.7 ("Small Scale Facilities") of this bylaw.
5. Type E. Type E Facilities are allowed as Conditional Uses in all zoning districts. A Type E Facility shall comply with the setback requirements of the zoning district in which it is located. It shall receive Conditional Use Approval, Site Plan Approval, and a Zoning Permit. It shall: (1) be developed in a manner designed to minimize scenic, natural, and aesthetic impacts; (2) not be visible more than 25' above the surrounding tree crown, unless it is located on a summit or ridge line, in which case it shall be located below the top of the surrounding tree crown; (3) not be illuminated; (4) not impact any of the 10 resources listed in Section 410.1.E.; and (5) comply with the requirements of Sections 607.6, 607.7.B, 607.12.F, 607.14, and 607.15, as applicable. It shall not exceed 35' in height unless it has received Conditional Use Approval to do so pursuant to Section 506 above. If new utility service lines are needed to service Type E Facilities, they shall be located so as to minimize their aesthetic impact (such as by burying them).

D. Types of use under Section 310

1. A Type A or a Type E Facility shall be considered a distinct Conditional Use and may be either the "Principal Building and Use" on a lot pursuant to Section 300.8 or a "Secondary Use" on a lot pursuant to Section 310.4. A Type A or a Type E Facility shall not be considered as a "Community Facility," a "Municipal Utility or Safety Related Facility," or an "Accessory Use" pursuant to Section 310.3.
2. A Type B, C, or D Facility shall be considered either the "Principal Building and Use" on a lot pursuant to Section 300.8, a "Secondary Use" on a lot pursuant to Section 310.4, or an "Accessory Use" pursuant to Section 310.3.

607.2 Purposes. The purpose of this bylaw is to protect the public health, safety, and general welfare of the Town of Putney while accommodating the communication needs of residents and businesses. This bylaw shall:

- A. Preserve the character and appearance of the Town of Putney while allowing adequate wireless telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, recreational, and natural resources of the Town of Putney.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of Wireless Telecommunications Facilities.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing and proposed Facilities where possible and appropriate.
- E. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Putney.
- F. Minimize the adverse visual effects of Facilities through careful design and siting standards.

607.3 Authority. Pursuant to Section 704(7)(A) of the Federal Telecommunications Act of 1996 and 24 V.S.A. § 4401 et seq., the Development Review Board of the Town of Putney is authorized to review, approve, conditionally approve, and deny applications for Wireless Telecommunications Facilities. Pursuant to 24 V.S.A. § 4407 and Putney Zoning Regulation 230.3.E, the Development Review Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

607.4 Consistency with Federal Law. In addition to other findings required by this bylaw, the Development Review Board shall find that their decisions regarding an application are intended to be consistent with federal law, particularly the Federal Telecommunications Act of 1996. This bylaw does not:

- A. Prohibit or have the effect of prohibiting the provision of personal wireless services;
- B. Unreasonably discriminate among providers of functionally equivalent services; or
- C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and Facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

607.5 Definitions. Definitions used in this bylaw shall be those contained in Article IX of the Putney Zoning Regulations as well as those contained in the Glossary of Telecommunications Terms in this bylaw below. In the event that any definitions in Article IX and the Glossary conflict, the definition in Article IX shall take precedence.

607.6 Allowed and Prohibited Locations (for Type A-E Facilities)

A. Zoning Districts allowed:

1. Type A Facilities may be allowed as Conditional Uses under Section 220 and upon compliance with the provisions of this bylaw in the following Zoning districts: Conservation, Resource, Rural Residential, and Multiple Use. They may be allowed in Village and Village Residential zoning districts only as provided in Section 607.7.B.
2. Type B, C, and D Facilities shall be allowed in all zoning districts.
3. Type E Facilities may be allowed as Conditional Uses under Section 220 in all zoning districts.

B. Fall Zones for Type A and Type E Facilities over 20' in height.

In order to ensure public safety from falling debris (such as ice or collapsing material), the minimum distance from the base of any tower over 20' in height for a Type A or Type E Facility to any property line, dwelling, business or institutional use, public recreational area, or the right-of-way of any public road or trail shall be, at a minimum, the distance equal to two times the height of the tower. However, the Fall Zone may cross property lines, so long as the applicant secures a Fall Zone easement from the affected property owner(s). The area of the easement shall be shown on the site plan, the terms of the easement shall be provided as part of Conditional Use Approval application materials, and the easement shall be recorded in the Putney land records before a Certificate of Occupancy may be issued (pursuant to Section 210) for the Type A or Type E Facility.

607.7 Small Scale Facilities (Type A, C, D, and E Facilities)

- A. Type C and Type D Facilities shall be allowed in all zoning districts without a Zoning Permit, providing they comply with the setback requirements of the zoning district in which they are located and providing they do not exceed 35' in height. If they will be located within a setback area, they shall be allowed only if they receive a Zoning Permit and a Variance (pursuant to Section 230). If they exceed 35' in height from the ground, they shall be allowed only if they receive a Zoning Permit, Site Plan Approval, Conditional Use Approval (pursuant to Section 506.2), and if they are within a setback area, a Variance (pursuant to Section 230).
- B. The placement of antennas, repeaters or microcells for Type A or Type E Facilities on existing towers, buildings, structures, roofs, or walls, and extending not more than 10 feet from or above the same, and located no closer than 50' to an existing residence, or the installation of Type A or Type E Facilities less than 20 feet in height from the ground and located no closer than 50' to an existing residence, shall be allowed in all zoning districts with the issuance of a Zoning Permit, Site Plan Approval, and Conditional Use Approval. Applications for a Zoning Permit, Site Plan

Approval, and Conditional Use Approval may be approved, provided the antennas, repeaters, or microcells meet the applicable requirements of this bylaw, upon submission of 19 copies of:

1. An application for a Zoning Permit accompanied with a site plan, elevations, and (if it is to be mounted on an existing tower, building, structure, roof, or wall) a building plan.
2. For a Facility to be installed on an existing tower, building, structure, roof, or wall, a copy of the applicant's executed contract with the owner of the property on which the existing tower, building, structure, roof, or wall is located.
3. Any other information requested by the Zoning Administrator, or Development Review Board that they judge is necessary to evaluate the application.

607.8 Narrative Application Requirements (for Type A Facilities)

- A. An applicant for a Zoning Permit for a Type A Facility not covered under Section 607.7.B must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or

Facilities to such an entity, to the Zoning Administrator at the time that an application is submitted. A Zoning Permit shall not be granted for a Facility to be built on speculation.

- B. No construction, alteration, modification (including the installation of antennas for new uses) or installation of any Type A Facility shall commence without Conditional Use Approval, Site Plan Approval, and a Zoning Permit.
- C. In addition to information otherwise required in the Putney Zoning Regulations, applicants for a Type A Facility shall include 7 copies of at least the following information for the Development Review Board:
 - 1. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office.
 - 2. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
 - 3. The names and addresses of the record owners of all neighboring properties.
 - 4. A report from a qualified engineer(s) that:
 - a. Describes the Facility's height, design, and elevation.
 - b. Documents the height above grade for all proposed mounting positions for antennas to be co-located on a telecommunications tower or Facility and the minimum separation distances between antennas.
 - c. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate.
 - d. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures proposed by the applicant within 5 miles of the proposed site (including sites in New Hampshire), cannot reasonably provide adequate coverage and adequate capacity to the Town of Putney as well as the intended service area. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
 - e. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells to provide coverage to the intended service area.
 - f. Describes potential changes to existing Facilities or sites that would enable them to provide adequate coverage.
 - g. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
 - h. Includes a written explanation for use of the proposed Facility, including reasons for seeking capacity in excess of immediate needs, if applicable, as well as plans for additional development and coverage within the Town.
 - i. Demonstrates the tower's compliance with setbacks requirements of the Putney Zoning Regulations. [see also Sections 300.9 and 607.6.B]
 - j. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure.

- k. Includes any other information requested by the Zoning Administrator, Planning Commission, and/or Development Review Board that they judge is necessary to evaluate the application.
 - l. Includes an engineer's stamp and registration number, where appropriate.
 - m. Includes a letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- 5. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Zoning Administrator at the time an application is submitted).
 - 6. To the extent required by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA) as administered by the FCC, a complete draft or final report describing the probable impacts of the proposed Facility. The applicant shall submit the Environmental Assessment to the Development Review Board prior to the beginning of the federal 30-day comment period.
 - 7. A copy of the application or draft application for an Act 250 Permit, if applicable, and available.
 - 8. A plan for mitigating adverse impacts on migrating birds.
 - 9. Studies of co-location opportunities as required by Section 607.10.
 - 10. A copy of the terms of any "Fall Zone" easements.
 - 11. An itemized estimate of the current cost of complying with the requirements of Section 607.18.E ("Facility Removal").
- D. The Putney Development Review Board may waive one or more of the application filing requirements of this section if they find that such information is not necessary for a thorough review of a proposed Facility.

607.9 Site Plan Requirements (for Type A Facilities)

- A. In addition to the Site Plan Approval requirements in Section 240 of the Putney Zoning Regulations, site plans for Type A Facilities shall include 7 copies of at least the following information for the Development Review Board:
 - 1. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed site of the Facility.
 - 2. Vicinity Map showing the entire vicinity within a 2,500-foot radius of the Facility site, including the Facility, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, recreation areas, historic sites and habitats for endangered species. It shall indicate the property lines of the lot on which the proposed Facility is located and all easements or rights-of-way needed for access from a public road to the facility.
 - 3. Proposed site plans of the entire development indicating all improvements, including structures, driveways, parking, landscaping, screening, utility lines, security fencing and gates, guy wires, and exterior lighting.
 - 4. Elevations for all structures, showing facades and indicating exterior materials and colors of towers, buildings, and associated facilities.
 - 5. A color photo of an existing, similar tower.

6. Computer generated, color photo simulations of the proposed Facility showing the Facility from all public rights-of-way, publicly owned lands, historic sites, parks, as well as any location required by the Development Review Board after the first or subsequent public hearings. Each photo must be labeled with the line of sight, elevation, and date taken. The photos must show the color of the Facility and method of screening.
 7. Description of the tree height and dominant tree species within a 200 feet radius of the proposed Facility, or if there is no existing vegetation within a 200 feet radius of the Facility, to the nearest tree cover.
 8. Construction sequence and time schedule for completion of each phase of the entire project.
 9. Balloon or crane test: If requested by the Development Review Board, the Applicant shall fly a balloon or set up a crane (and provide photographic documentation of the balloon or crane test) on the date and time required by the Development Review Board.
 10. Includes any other information requested by the Zoning Administrator or Development Review Board that they judge is necessary to evaluate the application.
- B. Plans shall be drawn at a minimum at the scale of one-inch equals fifty feet.
- C. The Putney Development Review Board may waive one or more of the application filing requirements of this section if they find that such information is not necessary for a thorough review of a proposed Facility.

607.10 Co-location Requirements (for Type A Facilities)

- A. An application for a new Type A Facility shall be approved only if the Development Review Board concludes that the Facilities planned for the proposed structure cannot be accommodated on an existing or approved tower or structure (in either New Hampshire or Vermont) due to one or more of the following reasons:
1. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or structure, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost and without violating the Design Requirements of Section 607.12, to provide coverage and capacity comparable to that of the proposed Facility.
 2. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or structure, as documented by a qualified engineer and such interference cannot be mitigated at a reasonable cost and without violating the Design Requirements of Section 607.12.
 3. The proposed antennas and equipment, either alone or together with existing Facilities, equipment or antennas, would create excessive radio frequency exposure.
 4. Existing or approved towers or structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer.
 5. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or structure.
 6. There is no existing or approved tower or structure in the area in which coverage is sought.
 7. The owner of an existing or approved tower or structure is unwilling to lease space at a reasonable price on the existing or approved tower or structure.

8. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or structure.

- B. The Development Review Board may require that a tower or structure must be designed structurally and in all other respects to allow for the future placement of antennas upon the tower or structure and to accept antennas mounted at varying heights when overall maximum height allows and the tower is able to meet the Tower and Antenna Design Requirements in Section 607.12 of this bylaw. An opportunity for co-location is not to be considered a sole justification for allowing a tower of maximum height. The Development Review Board may disallow sharing of Facilities upon finding that siting is improved under the conditions and purposes of this bylaw. Co-location opportunities shall also not exclude the investigation of alternative sites pursuant to Section 607.12.I.2 below.

607.11 Access Roads and Utility Lines (for Type A Facilities)

- A. Where the construction of new Type A Facilities requires construction of or improvement to access roads, to the extent practicable, roads shall minimize visual impact by following the contour of the land and be constructed or improved within forest or forest fringe areas and not in open fields. Construction of the access roads shall not cause erosion. Access driveways shall be gated, where appropriate, to limit public access to the Facility site.
- B. Utility lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Development Review Board may require that utility lines be buried.

607.12 Tower and Antenna Design and Screening Requirements (for Type A Facilities) (and for Subsection F only, Type E Facilities).

It is recognized that most towers for Type A Facilities are, by the nature of their design, readily visible and cannot be completely screened from view. The usefulness of Type A Facilities requires line of sight capability and some height above tree lines and nearby buildings. Total screening of such Facilities is usually not possible.

- A. The Development Review Board shall conclude that proposed Type A Facilities have used designs, materials, colors, textures, screening, and landscaping and been located to blend the Facilities with their natural setting and built environment to the maximum extent possible. The least visually intrusive Facility shall be built.
- B. Height and mass of Facilities shall not exceed that which is essential for the intended use and public safety.
- C. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the choice of location, tower type (such as monopole, lattice, or guyed), and use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have prescribed design requirements (including color and/or lighting). Designs which imitate natural features, such as trees, may be required by the Development Review Board in visually sensitive locations.
- D. A communications antenna may be located on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, or water tank.
- E. Height: The height limit for towers, antennas, and tower-related fixtures shall be not more than 25' above the surrounding tree crown, unless they are located on a summit or ridge line, in which case they shall be located below the top of the surrounding tree crown.
- F. Screening when mounted on existing buildings*:

(*also applies to Type E Facilities)

1. When a Facility mounted on an existing building extends above the top of the roof of the building on which it is mounted, every effort shall be made to conceal the Facility within or behind existing architectural features to limit its visibility from public rights-of-way. A Facility mounted on a roof shall be stepped back from the front facade in order to limit its

impact on the building's silhouette. The Facility shall not extend more than 10' above the top of the roof of the building on which it is mounted.

2. A Facility which is side mounted shall blend with the existing building's architecture and, if over 5 feet square, shall be painted or shielded with material which is consistent with the design features and materials of the building.

G. Screening by vegetation and topography:

1. 200' buffer: A Facility not mounted on an existing building shall be surrounded by a buffer of dense tree growth and understory that extends continuously in all directions for a minimum distance of 200 feet from the Facility to create an effective year-round visual buffer. Existing on-site vegetation within 200' of the Facility shall be preserved or improved to the maximum extent possible. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the Facility from surrounding property and public vantage points. The Development Review Board may reduce the width of the buffer if it concludes that a buffer extending less than the minimum distance of 200' is sufficient to screen the Facility (for example, when the Facility is screened by existing land forms).
2. Trees used for screening may be existing on the subject lot or be located within a landscape easement on an adjoining lot(s). The vegetative buffer area shall be protected by a recorded landscape easement or be within the area of the Facility lease. The easement or lease shall specify that the trees within the buffer:
 - a. shall not be removed or topped (except as provided below), unless the trees are dead or dying and present a hazard to persons or property; or
 - b. are being managed as a buffer of dense tree growth and understory pursuant to a forest management plan that has been prepared by a professional forester and approved by the Development Review Board.
3. Tree Topping: With approval of the Development Review Board, trees may be topped if found to interfere with reception or transmission and where continued growth would necessitate increasing the tower height.
4. The Development Review Board shall determine the types of trees and plant materials to be used for screening.
5. Ground mounted equipment as well as buildings and structures accessory to a tower shall be screened from public view by landforms and/or suitable vegetation, except where a non-vegetative screen better complements the architectural character of the surrounding neighborhood.

H. Protection of Prominent Ridgelines and Hilltops:

1. Facilities shall be designed to avoid having an undue adverse visual effect on prominent ridgelines and hilltops. They shall not be located within open areas on prominent ridgelines and hilltops: a buffer of dense tree growth shall surround Facilities on prominent ridgelines and hilltops. If they are located on a summit or ridge line, they shall be located below the top of the surrounding tree crown.
2. The Development Review Board shall determine the likely visual impact of any proposed Facility on prominent ridgelines and hilltops. Based on the information presented, the Board may require an alternative location for the tower and/or a redesign in order to minimize the visual impact on the scenic character of the ridgeline and hilltop. In determining whether or not a Facility would have an undue adverse visual effect on prominent ridgelines and hilltops, and when setting conditions of approval of a Site Plan, the Development Review Board shall consider:
 - a. the period of time during which the proposed Facility will be viewed by the traveling public on a public highway;
 - b. the frequency of the view of the Facility experienced by the traveling public;

- c. the degree to which the Facility would be screened by existing vegetation, the topography of the land, and existing structures;
- d. background features in the line of sight behind the proposed Facility that either obscure the Facility or make it more conspicuous;
- e. the distance of the proposed Facility from the view point and the proportion of the Facility that is visible above the skyline;
- f. the sensitivity or unique value of a particular view affected by the proposed Facility;
- g. whether the Facility significantly disrupts a viewshed that provides context to a historic structure or district on the National Register or to a scenic resource;
- h. Whether the Facility violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area; and
- i. Whether the applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the Facility with its surroundings.

607.13 Amendments to an Existing Zoning Permit (for Type A Facilities). An alteration or addition to a previously approved Type A Facility shall require a new Zoning Permit when any of the following is proposed:

- A. A change in the number of buildings or Facilities permitted on the site; or
- B. The addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

607.14 Reconstruction or Replacement of Existing Towers (supporting Type A or Type E Facilities).

Towers in existence at the time of adoption of this bylaw may be reconstructed, altered, extended or replaced on the same site as a Conditional Use, providing the Development Review Board concludes that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the area than the existing structure. In addition, if the existing tower is a Non-conforming Structure and/or Non-conforming Use, it shall meet the requirements of Article VIII of the Putney Zoning Regulations. The Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or compatibility with surrounding area.

607.15 Tower Lighting, Signs, and Noise Generated (by Type A and Type E Facilities)

- A. Unless required by the Federal Aviation Administration (FAA), no lighting of towers for Type A and Type E Facilities is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted to the Development Review Board by the applicant. The Development Review Board may require that heights may be reduced to eliminate the need for lighting or another location selected.
- B. No commercial signs or lettering shall be placed on a tower or facility. Signs shall be limited to that required by federal or state regulation.
- C. The Board may impose conditions to minimize the effect of noise from the operation of machinery or equipment upon neighboring properties.

607.16 Temporary Type A Facilities. Any Type A Facility designed for temporary use is subject to the following:

- A. Use of a temporary Type A Facility is permitted only if the owner has received approval for the temporary use from the Putney Town Manager.
- B. Approval for a temporary Type A Facilities shall be for no longer than five days for testing or for a special event.
- C. The maximum height of a temporary Type A Facility shall be as specified in 607.12.E.

607.17 Continuing Obligations (for Type A Facilities). Upon receiving a Zoning Permit, the Permittee of a Type A Facility shall annually file a report with the Town demonstrating that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for his or her representations.

607.18 Removal (of Type A Facilities). Abandoned, unused, obsolete, or noncompliant Type A Facilities (including towers) governed under this bylaw shall be removed, disposed of, and the site remediated as follows:

- A. The owner of a Facility shall annually, between January 15 and 30, file a declaration with the Zoning Administrator certifying the continuing safe operation of every Type A Facility installed subject to these regulations. Failure to file a declaration shall mean that the Facility is no longer in use and considered abandoned.
- B. Abandoned or unused Type A Facilities shall be removed and disposed of and the site remediated within 180 days of the cessation of operations at the site unless a time extension is approved by the Development Review Board. In the event the Facility is not removed and disposed of and the site remediated within 180 days of the cessation of operations at a site, the Town shall notify the owner and the Town may remove and dispose of the Facilities and remediate the site. All costs for removal, disposal, and remediation as well as all legal costs shall be assessed against the property and/or Facility owner.
- C. Facilities which are constructed in violation of permit conditions or application representations shall be removed and disposed of and the site remediated within 180 days of notice of a violation by the Zoning Administrator unless a time extension is approved by the Putney Development Review Board as a Conditional Use. In the event that the Facility is not removed and disposed of and the site remediated within 180 days of notification of such a violation, the town may remove and dispose of the Facilities and remediate the site. All costs for removal, disposal, and remediation as well as all legal costs shall be assessed against the property and/or Facility owner.
- D. An owner who has failed to file an annual declaration with the Zoning Administrator between January 15 and 30 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the Facility.
- E. The Applicant shall provide, as a condition of Conditional Use Approval, a financial surety bond payable to the Town of Putney and acceptable to the Putney Selectboard sufficient to cover the current cost of removal and disposal of the Facility and remediation of the site, should the above clauses in 607.18 A. through D. be invoked. The financial surety bond payable to the Town of Putney shall be reviewed at 3-year intervals by the Putney Selectboard to determine whether it is of sufficient amount to cover the costs of removal and disposal of the Facility and remediation of the site. If it is determined by the Putney Selectboard that the financial surety bond payable to the Town of Putney is no longer adequate to cover these costs, then the Selectboard may require that the financial surety bond be increased.

607.19 Maintenance Requirements (for Class A Facilities)

- A. The Applicant shall maintain all Class A Facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping.

- B. In the event the applicant fails to maintain the Facility, the Town may undertake such maintenance at the expense of the applicant and/or landowner.

607.20 Insurance Requirements (for Class A Facilities). The Facility owner shall maintain adequate insurance on all Facilities.

607.21 Fees (for Type A, C, D, and E Facilities)

- A. Fees for filing an application to build or alter a Class A Facility shall be \$500 in addition to the regular Zoning Regulation Fee schedule established by the Putney Selectboard.
- B. Small Scale Facilities (see Section 607.7) which shall be governed by the regular Zoning Regulation Fee schedule established by the Putney Selectboard.
- C. Pursuant to 24 V.S.A. § 4407 and Putney Zoning Regulation 230.3.E, the Development Review Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

607.22 Enforcing Agent. The Zoning Administrator shall be the agent to enforce the provisions of this bylaw.

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

607.24 Effective Date. This bylaw shall be effective on May 22, 2021.

GLOSSARY OF TELECOMMUNICATIONS TERMS

Adequate Capacity: Capacity for wireless telephony is considered to be “adequate” if the grade of service (GOS) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

Adequate Coverage: Coverage for wireless telephony is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Affiliate: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator’s principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Tower Structure: Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).

Antenna: A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the antenna on the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

Applicant: A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner’s written permission (or other legally designated representative) or the owner of the property.

Available Space: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Bulletin 65: Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

Cell Site: A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.

Cellular Service: A telecommunications service that Permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular Telecommunications: A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cellular Telecommunications Facility: Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Channel: The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

Co-location: Locating wireless communications equipment from more than one provider on a single site.

Common Carrier: An entity licensed by the FCC or a state agency to supply local and/or long-distance telecommunications services to the general public at established and stated rates.

Communication Equipment Shelter: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

Communication Tower: A guyed, monopole, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

dBm: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Directional Antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Dish Antenna: A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

Facility: A "Wireless Telecommunications Facility."

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

Fall Zone: The area on the ground from the base of a ground mounted tower that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area with which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

Frequency: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

GHz: Gigahertz. One billion hertz

Hertz: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

Location: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

MHz: Megahertz, or one million hertz.

Micro-Cell: A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

Microwave Antenna: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Monitoring: The measurement, by the use of instruments in the field, of radio frequency exposure from telecommunications Facilities, towers, antennas or repeaters.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

Omnidirectional Antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

Personal Communications Services or PCS: Digital wireless telephone technology using higher frequency spectrum than cellular.

Personal Wireless Services: Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

Preexisting Towers and Antennas: Any tower or antenna for which a Permit has been issued prior to the effective date of these regulations.

Radiated-Signal Propagation Studies or Coverage Plots: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining a need and whether the telecommunications equipment will provide adequate coverage for that site.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

Roof and/or Building Mount Facility: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Scenic View: A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object.

Self-Supporting Tower: A communications tower that is constructed without guy wires.

Spectrum: Relating to any transmissions or reception of electromagnetic waves.

Stealth Facility: Any communications facility which is designed to blend into the surrounding environment. Examples of stealth Facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure.)

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

System: The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Facility: A "Wireless Telecommunications Facility."

Telecommunications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary Wireless Communication Facility: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

Tower: A vertical structure for antenna(s) that provide telecommunications services.

View Corridor: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Whip Antenna: A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

Wireless Telecommunications Facility: All equipment (including repeaters) and the locations of equipment with which a telecommunications provider transmits and/or receives the waves which carry their services and their



support structures. This facility may be sited on one or more towers or structure(s) either owned by the provider or owned by another entity.

Zoning Permit: Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.

ARTICLE VII AREAS OF SPECIAL CONSIDERATION OVERLAY DISTRICTS

SECTION 700 AREAS OF SPECIAL CONSIDERATION

Lands with significant natural resources or ecological sensitivity have been designated as Areas of Special Consideration. Development on these lands must be done in a way that ensures the wise use, conservation, and protection of these resources, so as to minimize their waste or irretrievable loss. Areas of Special Consideration are as follows:

- A. Shorelands;
- B. Rare Plants and Animals and Significant Natural Communities;
- C. Ponds;
- D. Wellhead Protection Zones;
- E. Wetlands;
- F. Flood Hazard Areas.

SECTION 710 CONNECTICUT RIVER SHORELAND REGULATIONS

710.1 Authorization: Pursuant to Section 4424 of the Act and of Chapter 49, Title 10, V.S.A., there are hereby established Connecticut River Shoreland Regulations for the Town of Putney.

710.2 Purpose. The intent of these Connecticut River Shoreland Regulations is to:

- A. Prevent and control water pollution;
- B. Preserve and protect wetlands and other terrestrial and aquatic wildlife habitat;
- C. Conserve the scenic beauty of the Connecticut River shoreland;
- D. Minimize shoreline erosion;
- E. Preserve public access to public waters;
- F. Provide a reasonable balance between resource protection and resource use.

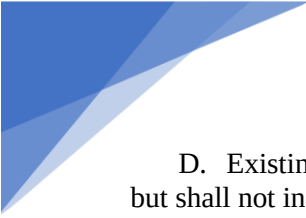
710.3 Lands Affected. Putney's Connecticut River Shoreland consists of all lands within 500' of the normal mean high-water mark of the Connecticut River.

710.4 Connecticut River Shoreland Riparian Buffer. Within the Shoreland, a naturally vegetated buffer strip shall be maintained along the Connecticut River. The buffer strip shall be 100 feet in width, measured horizontally from the normal mean high-water mark.

A. The riparian buffer shall remain undisturbed and in natural vegetative cover unless otherwise authorized by the Development Review Board.

B. Trees that are dead or heavily damaged by natural events are permitted to be removed if they pose a hazard to person or property. The clearing of invasive species is permitted. Any other clearing activity requires DRB approval pursuant to the Waiver criteria as set forth in these Bylaws.

C. Stumps and their root systems which are located within 50' of the top of stream bank shall be left intact in the ground unless removal is authorized by the DRB pursuant to the waiver criteria set forth in these Bylaws.



D. Existing uses that encroach into the Riparian Buffer, such as agricultural uses and mowing, may continue but shall not increase the extent of encroachment. If the use is discontinued for more than 3 years it shall not be resumed, and the riparian buffer shall remain undisturbed.

710.5 Shoreland Development Standards. In addition to other applicable requirements, such as the Flood and Fluvial Erosion Hazard Regulation, all uses allowed in the underlying zoning district, whether Permitted or Conditional, shall require Conditional Use Approval within the Connecticut River Shoreland area and its Riparian Buffer, and shall comply with the following development standards:

A. In addition to all uses allowed in the underlying Zoning Districts, water-dependent structures or uses, public recreation facilities, and public trails or walkways are allowed within the Shoreland and its Riparian Buffer and require Conditional Use Approval.

B. Structures and uses allowed within the Shoreland shall be designed, constructed and maintained to minimize impact on the Shoreland habitat and water quality, and to minimize interference with the natural flow of water.

C. Materials that are pollutant, buoyant, flammable, poisonous or explosive shall be stored only in a manner that is safe and will not endanger fish or aquatic life.

D. The applicant must demonstrate that any proposed land development within the Riparian Buffer cannot be accommodated on land outside the Buffer.

710.6 Application. The Development Review Board shall implement the Shoreland Development Standards during Conditional Use review. They shall be also be implemented by the Development Review Board when reviewing Planned Unit Developments, Planned Residential Developments, Planned Educational Developments, and subdivisions.

[see also Section 410.E.10]

710.7 Interpretation of Shoreland Boundaries. The Zoning Administrator shall determine the location of the boundaries of the Shoreland and Riparian Buffer by use of the best information available or by actual measurement in the field. Upon appeal of the decision of the Zoning Administrator as to a boundary location, the DRB shall make the necessary interpretation.

710.8 Setbacks from Streams.

The following standards shall apply to all streams which are identified on the Putney Town Plan Proposed Land Use maps as a “Stream with greater than one square mile of drainage area.”

- A. Except as provided in Subsection B below, no permanent structure shall be erected, or fill placed, within 75 feet from the center of the stream.
- B. The Development Review Board may grant Conditional Use Approval for erection of a permanent structure or placement of fill where, because of existing topography, compliance with Subsection A above would be impractical or unreasonable. The Board shall find that the structure or fill will not be subject to flood damage and will not cause increased flood damage to other lots in the event of a Base Flood. The application requirements and procedures of Section 760 below shall apply.



SECTION 720 RARE PLANTS AND ANIMALS & SIGNIFICANT NATURAL COMMUNITIES

In order to preserve and protect Rare Plants and Animals and Significant Natural Communities as indicated by use of the best information available or by actual observation in the field, Land Development proposed within, or adjacent to, areas containing Rare Plants and Animals and Significant Natural Communities shall be permitted only if in accordance with the written recommendations of the Vermont Nongame and Natural Heritage Program.

SECTION 730 PONDS

In order to minimize the impact of pond construction on aquatic life, all pond construction is subject to the following special considerations:

- A. The construction of ponds which obtain water from ground water, or from overland drainage rather than from streams, is encouraged.
- B. The construction of any pond¹ on any permanent or seasonal stream, or using stream water as a source of water for a pond, shall be permitted only if approved by the Vermont Agency of Natural Resources.

SECTION 740 WELLHEAD PROTECTION AREAS

740.1 Purpose. Wellhead protection areas (WHPA) are designated by the State of Vermont for wells that supply water for "public" water systems (wells with 10 or more service connections or serving more than 25 people for at least 60 days of the year). Land development within these protection areas shall not have an adverse effect on the quality of the water.

740.2 Lands Affected. Lands falling within WHPA's are those lands indicated on Vermont Agency of Natural Resources' maps or based on the best currently available data.

740.3 Required Notification. Prior to the issuance of a zoning permit for land development within a WHPA, a copy of the application may be submitted by the Zoning Administrator to the Vermont Agency of Natural Resources and the operator of the water system. A zoning permit may be issued only if the proposed Land Development shall not have an adverse effect on the quality of the water.

SECTION 750 WETLANDS

750.1 Purpose. To protect significant wetlands and the values and functions that they serve in such a manner that the goal of no net loss of such wetlands and their functions is achieved.

750.2 Vermont State Wetlands Permit Requirements. Pursuant to 24 V.S.A. § 4448, applicants seeking municipal permits or authorizations are hereby advised that they should contact the Regional Permit Specialist employed by the Agency of Natural Resources in order to assure timely action on any related state permits. Local permitting does not relieve the applicant of the responsibility for any required Vermont State permits or approvals. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

750.3 Lands to Which These Regulations Apply. Class I or Class II wetlands as defined and regulated under the Vermont Wetland Rules, and as shown on the most recent Vermont Significant Wetland Inventory Map for the Town of Putney, or as identified by the Vermont Agency of Natural Resources.

750.4 Buffer Zone. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least 100 feet in width for Class I, or 50 feet in width for Class II from a delineated wetland boundary as defined in 750.3 above.



750.5 Allowed Uses. Silvicultural, agricultural, and other uses meeting the requirements of the *Vermont Wetland Rules (2017) Section 6: Allowed Uses* are allowed without a permit in a Class 1 or Class II wetland and its buffer zone.

SECTION 760 FLOOD HAZARD AREA REGULATIONS¹

¹(as adopted by the Putney Selectboard on 10/10/2018 and as effective on 11/1/2018)

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 § 4411, § 4412, § 4414, § 4424, and 24 V.S.A. Chapter 59, there is hereby established a bylaw for areas at risk of flood damage in the Town of Putney, Vermont. Except as additionally described below, all administrative procedures follow town procedures under 24 V.S.A. Chapter 117.

760.1 Purpose: It is the purpose of this bylaw to:

1. Implement the goals, policies, and recommendations in the current town plan;
2. Avoid and minimize 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 related inundation and erosion;
3. Ensure that the selection, design, creation, and use of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property in a flood hazard area and does not impair stream equilibrium, floodplain services, or the river corridor; and
4. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the local hazard mitigation plan; and make the Town of Putney, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, enhanced state emergency relief assistance funds, and hazard mitigation funds as may be available.

760.2 Other Provisions

- A. **Precedence of Bylaw and Greater Restrictions.** The provisions of this bylaw shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions here shall take precedence. If there is any conflict between the provisions of this bylaw, the more restrictive shall apply.
- B. **Validity and Severability.** If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.
- C. **Warning and Disclaimer of Liability.** This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Putney, or any town official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

760.3 Lands to Which these Regulations Apply

- A. **Identification:** The Regulated Flood Hazard Areas include:
 1. The mapped River Corridors in the Town of Putney, Vermont, as shown on the Vermont Agency of Natural Resources on the Natural Resources Atlas as the Statewide River Corridor Map Layer, and refinements to that data based on field-based assessments. On streams with a watershed size between



half a square mile and two square miles, the standards in this bylaw apply also to a Small Stream Setback area measured as 50-feet from the top of the stream bank or slope. Together the River Corridors and the Small Stream Setbacks are referred to as the River Corridor in this bylaw and are hereby adopted by reference and declared to be part of these regulations¹; and

¹ [The official River Corridor Maps are available on the Vermont Agency of Natural Resources online Natural Resources Atlas: <http://anrmaps.vermont.gov/websites/anra/>. Mapped Small Stream Setbacks are for reference only and on-the-ground determinations should be made to determine exact boundaries from top of bank or slope. The Vermont Emergency Relief and Assistance Fund (ERAF) requires regulation of mapped River Corridors and Small Stream Setbacks on streams with a watershed between 5-2 square miles as a minimum for the enhanced]

2. The Special Flood Hazard Area (SFHA) in and on the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 28, 2007, or the most recent revision thereof, issued by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. This includes all digital data developed as part of the FIS²

² [FIS and FIRMs are available digitally on FEMA's online Map Service Center: <https://msc.fema.gov/portal/>]

These regulations shall apply to the above referenced areas (hereafter jointly called Regulated Flood Hazard Areas" unless referenced specifically) in the Town of Putney, Vermont. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

NOTE: The Town of Putney separately regulates Shorelands. Information on Shorelands is contained within the Putney Zoning Bylaw.

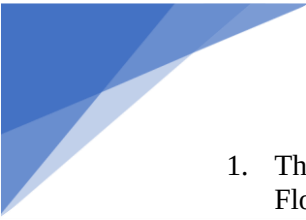
B. Interpretation:

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, he or she may appeal to the Development Review Board (DRB). The burden of proof shall be on the appellant. A Letter of Map Amendment from the FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, he or she may appeal to the DRB. The burden of proof shall be on the appellant. A letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

C. Description of FEMA Identified Special Flood Hazard Areas

The FEMA identified floodplain area shall consist of the following specific areas:

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1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway (AE with Floodway) and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the municipality during the occurrence of the base flood discharge.
 2. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - a. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 3. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the town may require the applicant to determine the base flood elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

4. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

D. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the DRB where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a municipality shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Section VIII.D of this bylaw for situations where FEMA notification is required.

Administrative revisions to the River Corridor may be made at the request of the municipal legislative body to facilitate infill and redevelopment away from undeveloped river corridors and protect public infrastructure. The Agency of Natural Resources shall make those administrative revisions to the River Corridor or River Corridor Protection Area on the Statewide River Corridor Map Layer that are consistent



with the procedure outlined in the most recent *Vermont DEC Flood Hazard Area and River Corridor Protection Procedures*.

760.4 Administration

A. Designation of the Zoning Administrator

The Zoning Administrator is hereby appointed to administer and enforce this bylaw and is referred to herein as the Zoning Administrator or ZA. The Zoning Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

Administration of any part of these regulations by another entity shall not relieve the municipality of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Zoning Administrator, the Zoning Administrator duties are to be fulfilled by the Development Review Board Chair.

B. Duties and Responsibilities of the Zoning Administrator

1. The Zoning Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable local codes and bylaws. Within 30 days after a local land use permit has been issued or within 30 days of the issuance of any notice of violation, the ZA shall:
 - a. Deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the town clerk for recording in the land records as provided in 24 VSA, § 1154(a), and § 4449;
 - b. File a copy of the permit and any approvals in the town office in a location where all town land use permits shall be kept; and,
 - c. The ZA may charge the applicant for the cost of the recording fees as required by law.
2. Prior to the issuance of any permit, the Zoning Administrator shall inform any person applying for a permit or authorization that the person should contact the regional permit specialist employed by the Agency of Natural Resources in order to assure timely action on any other related state or federal permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state and federal permits. The applicant shall provide the Zoning Administrator with a copy of the Project Review Sheet issued by the regional permit specialist for awareness of what other permits are required.
 - a. Per 24 VSA § 4424, a permit for development outside of the SFHA may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The DRB should consider comments from the NFIP Coordinator at ANR.
 - b. For development within the FEMA Identified SFHA, no permit shall be issued until all other necessary government permits required by state and federal laws have been obtained.



NOTE: Information on what other state and federal permits are or may be required is available by contacting the ANR Regional Permit Specialist.

3. In the case of existing structures, prior to the issuance of any Development/Permit, the Zoning Administrator shall review the history of repairs to the subject building, so that any Repetitive Loss issues can be addressed before the permit is issued.

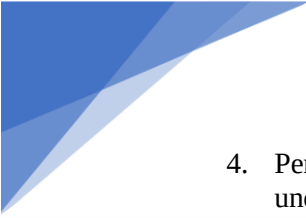
NOTE: Questions about Repetitive Loss should be directed to FEMA. FEMA directly insures all Repetitive Loss properties through the National Flood Insurance Program.

4. Within three days following the issuance of a permit, the ZA shall:
 - a. Deliver a copy of the permit to the Listers of the town; and
 - b. Post a copy of the permit in at least one public place in the town until the expiration of 15 days from the date of issuance of the permit.
5. During the construction period, the Zoning Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable local laws and bylaws. He/she shall make as many inspections before, during and upon completion of the work as are necessary, including, but not limited to, once the site has been staked out or demarcated but before actual start of construction.
6. In the discharge of his/her duties, the Zoning Administrator shall have the authority to enter any building, structure, premises or development in the Regulated Flood Hazard Area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this bylaw.
7. In the event the Zoning Administrator discovers that the work does not comply with the permit application or any applicable laws and bylaws, or that there has been a false statement or misrepresentation by any applicant, the Zoning Administrator shall revoke the Permit and report such fact to the DRB for whatever action it considers necessary.
8. The Zoning Administrator shall maintain all records associated with the requirements of this bylaw including, but not limited to:
 - a. All permits issued in areas covered by this bylaw;
 - b. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the municipality) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Areas;
 - c. All flood proofing and other certifications required under this regulation;
 - d. All decisions of the DRB (including conditional use decisions, waivers, variances and violations) and all supporting findings of fact, conclusions and conditions;

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- e. Finished construction elevation data;
 - f. Inspection documentation; and
 - g. Enforcement documentation.
9. The Zoning Administrator is the official responsible for submitting a biennial report to the FEMA concerning community participation in the National Flood Insurance Program.

C. Public Notice

1. Prior to the issuance of a permit, proposals needing conditional use review, nonconforming structures and uses review, or approval for a variance or waiver, must have a warned public hearing as per 24 V.S.A. Chapter 117 § 4464. A copy of the application shall be submitted to VT Agency of Natural Resources (ANR) at least 30 days prior to the date of the public hearing. Public notice of the hearing shall be provided not less than 15 days prior to the date of the public hearing by all the following:
 - a. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the town affected;
 - b. Posting of the same information in three or more public places within the town including posting within view from the public right-of-way nearest to the property for which an application is made;
 - c. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way and, in any situation in which a waiver or variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
 - d. For hearings on subdivision plats located within 500 feet of a town boundary, written notification to the clerk of the adjoining town.
2. Public notice of all other types of development review hearings, including site plan review shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
 - a. Posting of the date, place and purpose of the hearing in three (3) or more public places within the affected town; and
 - b. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way and, in any situation in which a variance is sought regarding setbacks from a highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
3. The applicant shall bear the cost of the public warning and notification of adjoining landowners and interested parties as defined per 24 V.S.A. Chapter 117 § 4465(b).

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4. Per 24 V.S.A. Chapter 117 § 4464(a)(5), no defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the DRB or the Environmental Court, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

D. Decisions

The ZA shall act within 30 days of receipt of a complete application, to approve or deny the application, or refer the application to the DRB. Applications that cannot be approved in compliance with this bylaw shall be denied. The decision shall be issued in writing and include a statement of the factual bases on which the conclusions were made. Decisions of the ZA can be appealed as per this bylaw and 24 V.S.A. Chapter 117 § 4465-4472. If the ZA fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

E. Appeals

An interested party may appeal any decision or act taken by the Zoning Administrator in any town by filing a notice of appeal with the secretary of the DRB of that town or with the clerk of that town if no such secretary has been elected. This notice of appeal must be filed within 15 days of that decision or act, and a copy of the appeal shall be filed with the Zoning Administrator. The DRB shall set a date and place for a public hearing of an appeal within 60 days of the filing of the notice of appeal and shall mail the appellant a copy of that notice not less than 15 days prior to the hearing date. Hearings on appeals are governed per 24 V.S.A. Chapter 117 § 4468. Decisions on appeals are governed per 24 V.S.A. Chapter 117 § 4464(b).

1. The DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information. The DRB should close the evidence promptly after all parties have submitted the requested information, adjourn the hearing, and may deliberate prior to issuing its decision.
2. Decisions of the DRB shall be issued in writing within 45 days after the adjournment of the final hearing, and failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Decisions shall be in writing and shall be sent by certified mail to the applicant and the appellant. Copies of the decision shall also be mailed to every person or body appearing and having been heard at a hearing. The decision will include a notice that an interested person may appeal the decision to the Environmental Court as per 24 V.S.A. Chapter 117 § 4471.
3. Decisions by the DRB shall include a statement of the factual basis on which the DRB has made its conclusions regarding how the proposed development will meet the development standards, and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided.
4. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this bylaw and the town plan then in effect. DRB decisions shall be conditioned to assure that all necessary permits must be also received from those government agencies from which approval is required by Federal, State or local law for the approval to be valid. The DRB may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the town to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public Facilities that may be affected by a project.



NOTE: Granting of an appeal will not relieve a landowner or a town from the obligation to comply with the minimum requirements of the National Flood Insurance Program. Landowners and municipalities that fail to meet the Program's minimum requirements, notwithstanding any appellate decision to the contrary, are in violation of the National Flood Insurance Program and remain subject to the accompanying penalties.

F. Permit Validity: Each permit issued shall:

1. Contain a statement of the period of time within which an appeal may be filed;
2. Require posting of a notice of permit on a form prescribed by the town within view from the public right-of-way most nearly adjacent to the subject property for not less than 15 days after issuance, which is the appeal filing period.
3. Not take effect until 16 days after issuance, or in the event that a notice of appeal of a decision by the ZA is properly filed, no such permit shall take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until adjudication by the environmental court; and,
4. Be valid for a period of two years after issuance.

G. Changes

After the issuance of a permit, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Administrator. If changes are deemed necessary requests for such change shall be in writing, and shall be submitted by the applicant to the Zoning Administrator for consideration. The ZA shall determine if the change requires a new permit application, or an amendment can be made to the existing permit. The ZA may require the applicant to hire a professional engineer, or other professional of demonstrated qualifications, to determine if the change will cause any change to the Base Flood Elevation, but that may not be the only consideration taken by the ZA in determining if a new application is required.

H. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the permit. Work shall also be completed within twenty-four (24) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Administrator.

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



Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Zoning Administrator to approve such a request and the original permit is compliant with the bylaw & FIRM/FIS in effect at the time the extension is granted.

760.5 Permit Application Guidelines

A. Application Submission Requirements

1. Applications for development in a Regulated Flood Hazard Area shall be made, in writing, to the Zoning Administrator on forms supplied by the Town of Putney. Such application shall include:
 - a. The name and contact information for the owner of the property, including any agents authorized to act on their behalf;
 - b. A thorough description of the proposed development;
 - c. General location map including the address of the property, tax parcel ID, relative locations of the existing development and the nearest public road;
 - d. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, River Corridors and 50-foot small stream setbacks, 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;
 - e. Three copies of the application, including one to be forwarded to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program; and,
 - f. The appropriate fee as determined by the Selectboard.
2. If any proposed construction or development is located entirely or partially within any FEMA defined Special Flood Hazard Area or Town Identified Flood Hazard Area, applicants for Permits shall provide all the necessary information listed below, in addition to that mentioned above in 760.5 (A)1, in sufficient detail and clarity to enable the Zoning Administrator to determine that:
 - a. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and bylaws;
 - b. all utilities and Facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - c. adequate drainage is provided so as to reduce exposure to flood hazards;
 - d. structures will be anchored to prevent floatation, collapse, or lateral movement;
 - e. building materials are flood-resistant;
 - f. appropriate practices that minimize flood damage have been used; and
 - g. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service Facilities have been designed and located to prevent water entry or accumulation.
3. If any proposed construction or development is located entirely or partially within any FEMA defined Special Flood Hazard Area or Town Identified Flood Hazard Area, applicants for Permits shall provide the following data and documentation, in addition to that mentioned above in 760.5, (1) and (2).

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- a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood;
 - b. for development in the FEMA defined SFHA, the base flood elevation shall be provided along with the methodology used for determining it;
 - c. detailed information concerning any proposed floodproofing measures and corresponding elevations;
 - d. document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development;
 - e. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any Special Flood Hazard Area (See Section 760.3 of this bylaw), when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation in any Special Flood Hazard Area; and
 - f. If a Vermont Agency of Natural Resources Project Review Sheet was completed and submitted to ANR, this shall also be included in your application to the Town. The ANR Project Review Sheet is a tool that identifies all State and Federal agencies from which permit approval *may* be required for the proposal. Regardless of whether a Project Review Sheet is completed, all required state and federal permits shall be submitted to the FA and attached to the permit before work can begin in any FEMA defined Special Flood Hazard Area.
4. For applicants seeking conditional use approval, approval under nonconforming structures and uses, a waiver, or a variance, for development within any Regulated Flood Hazard Area, the following also need to be provided, in addition to that mentioned above in 760.5, (2) and (3):
- a. A list of abutters names and mailing addresses;
 - b. A statement of purpose and need for the proposed development;
 - c. A description of the alternatives considered to the proposed development, including alternate locations on the parcel or site, especially outside of the hazard area;
 - d. Such pertinent information as identified in the regulations or deemed necessary by the DRB for determining the suitability of the proposed development for the site;
 - e. For a variance, then the application must include responses to the regulations set forth in 24 VSA § 4469, and CFR 60.6 (only if located in the FEMA Identified SFHA), and Section 760.10 of this bylaw;
 - f. For a waiver, then the application must include responses to the regulations set forth in CFR 60.6 (only if located in the FEMA Identified SFHA), and Section 760.9 of this bylaw;
 - g. Copies of the application sufficient for the DRB members, the State National Flood Insurance Program Coordinator, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent municipalities if affected under Section 760.4. C.1(d) of this bylaw; and,



h. Any additional fees as required by the Selectboard.

5. It is the responsibility of the applicant to provide material necessary for the Floodplain Administrator, Flood Hazard Review Board, and any other designated Town official, to fully understand the development proposal and to be able to make appropriate determinations using the data and materials provided by the applicant. Costs incurred for the development of application materials are the responsibility of the applicant.

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. Chapter 117 § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The DRB should consider comments from the NFIP Coordinator at ANR.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, applicant shall provide the adequate number of copies of the application for the Zoning Administrator to submit copies to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The DRB should consider comments from the NFIP Coordinator at ANR.

760.6 Development in Regulated Flood Hazard Areas

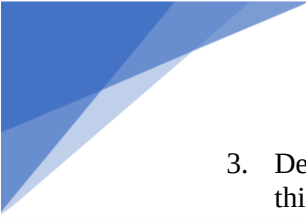
A. Permit Requirement

A permit is required from the Zoning Administrator (ZA) for all proposed construction and development in all areas defined in Section IV.A. Development that requires conditional use approval, non-conforming use approval, a waiver, or a variance from the DRB under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to town jurisdiction in the designated hazard areas shall meet all relevant criteria in Section 760.7 of this bylaw. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The DRB should consider comments from the NFIP Coordinator at ANR. For development within the SFHA, no permit shall be issued until all other necessary government permits required by state and federal laws have been obtained.

B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area, where outside of the floodway and outside of the River Corridor, and meeting the Technical Provisions in Section 760.7 of this bylaw, require only an administrative permit from the ZA:

1. Non-substantial improvements of less than a 500 square foot footprint to existing residential and non-residential structures, providing the improvements do not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Accessory structures built in accordance with 760.7.A.8 of this Bylaw;

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3. Development related to on-site septic or water supply systems in accordance with 760.7.A.11 and 13 of this Bylaw;
 4. Building utilities in accordance with relevant Technical Provisions in Section 760.7 of this bylaw;
 5. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater;
 6. Stream crossings in the SFHA that do not require Stream Alteration Permits, span top-of-bank to top-of-bank, and are to be used exclusively for recreational uses;
 7. At-grade parking for existing buildings; and,
 8. Storage or parking of recreational vehicles, not to exceed 120 days, provided they are fully licensed and ready for highway use, and comply with all relevant sections of the Zoning Bylaw, including Sections 603 and 604.

C. Prohibited Development in Regulated Flood Hazard Areas

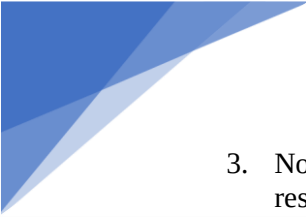
For the purposes of review under these regulations, the following development activities are prohibited in any Regulated Flood Hazard Area, and would only be allowed via issuance of a variance or waiver:

1. New residential or non-residential structures (including the placement of new Manufactured homes);
2. Any improvement to an existing structure that decreases the pre-existing distance between the unaltered structure and the top of bank;
3. Storage of junk or automobile graveyard;
4. New fill, except as necessary to elevate structures above the base flood elevation, and placed in accordance with 760.7. A.16 of this bylaw;
5. Accessory structures in the Floodway;
6. Critical Facilities in all areas affected by mapped flood hazards; and,
7. All development not otherwise exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for the following proposed development, which shall be undertaken in accordance with all relevant technical provisions described in Section 760.7 of this bylaw:

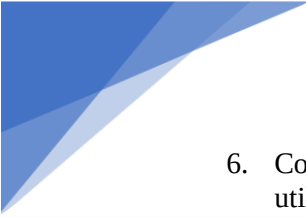
1. Substantial improvement, elevation, relocation, or flood-proofing of an existing residential or non-residential structure that does not expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Any improvement to an existing residential or non-residential structure that does expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;

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3. Non-substantial improvement of less than a 500 square foot footprint to an existing residential or non-residential structure in the River Corridor that does not decrease the preexisting distance between the unaltered structure and the top of bank;
 4. New or replacement storage tanks for existing structures placed in accordance with 760.7.A.17, 19 and 24 of this Bylaw;
 5. Any improvements to existing residential and non-residential structures in the floodway;
 6. Grading, excavation, or the creation of a pond;
 7. Improvements to existing roads or streets, in accordance with 760.7.A.14 of this bylaw;
 8. Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are located in the SFHA and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder;
 9. Subdivision of land in the SFHA or River Corridor in accordance with 760.7.A.15 of this bylaw;
 10. Accessory structures in the River Corridors, of 500 square feet or less and in accordance with 760.7.A.8 of this bylaw;
 11. Building utilities placed in accordance with the relevant standards of this bylaw;
 12. Power generation Facilities and telecommunications infrastructure not otherwise regulated by 30 V.S.A. Chapter 5 § 248 or § 248a; and
 13. At-grade parking for existing buildings in the River Corridor.

E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part, in conjunction with an approved site stabilization plan³;
2. Previously Developed Sites:
 - a. Pre-existing development may continue.
 - b. A pre-existing building or developed site may be used for any purpose allowed in the zoning district.
3. Maintenance of existing roads, parking areas and stormwater drainage, not including any expansions;
4. Maintenance of existing trails, and the expansion or development of new trails that do not include any type of channel management or stabilization;
5. Maintenance of existing bridges, culverts, and channel stabilization activities, not including and expansions;

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6. Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are located within the River Corridor and not in the SFHA, and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder;
 7. Stream crossings in the River Corridor that do not require Stream Alteration Permits, span top-of-bank to top-of-bank, and are to be used exclusively for recreational uses;
 8. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
 9. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices. Prior to the construction of farm structures, the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

³ Approval could come from Army Corps of Engineers, Agency of Natural Resources, a grant funding entity, or the Floodplain Administrator.

F. Nonconforming Structures

The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a Regulated Flood Hazard Area provided that:

1. The proposed development is in compliance with all the Technical Provisions in Section 760.7 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel, provided it is outside of the Floodway. A nonconforming structure cannot be rebuilt in the floodway. The lowest floor of the reconstructed residential structure must be rebuilt with the lowest floor elevated to two feet or more above the base flood elevation, and a non-residential structure must be floodproofed according to 760.7.A.4 of this bylaw, and the structure must otherwise comply with all requirements of the National Flood Insurance Program and this bylaw;
3. An individual Manufactured home remaining occupied in an existing Manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement Manufactured homes must be placed so as to meet the development standards in this bylaw; and
4. A nonconformity, located in a Regulated Flood Hazard Area, that the town deems to be a public nuisance or public health risk or hazard may be abated or removed as per 24 V.S.A. Chapter 117 § 4412.7(C).

G. Small Stream Setbacks

On previously developed lots, natural woody vegetation will not have to be re-established on areas within the riparian setback maintained as lawns or gardens. However, the maintenance or establishment of forested buffers within designated small stream setbacks and mapped River Corridors is strongly encouraged. Undisturbed buffers serve to protect habitat and quality of waterways. Vegetation removal and management, including the control of invasive species, within buffers should be done following accepted management practices such as those listed on vtinvasives.org⁴

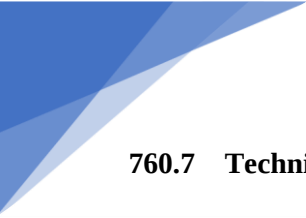
⁴ Questions regarding what an acceptable vegetation management practice is should be directed to the Vermont Agency of Natural Resources Department of Forest, Parks and Recreation

H. Flood Hazard Area Activities Table

Activity P Permitted C- Conditional Review X- Prohibited A- Exempt	Hazard Zone		
	Special Flood Hazard Area	Floodway (with no increase to BFE)	River Corridors
New Structures (including new manufactured homes)	X	X	X
Non-substantial improvement (<50% FMV ⁵) of less than 500 sq. ft to an existing structure that is no closer to waterway (If River Corridor then also in building shadow)	P	C	C
Substantial improvement (>50%FMV) of less than 500 sq. ft to an existing structure that is no closer to waterway (If River Corridor then also in building shadow)	C	C	C
Any improvement of more than 500 sq. ft to an existing structure that is no closer to waterway (If River Corridor then also in building shadow)	C	C	C
Any improvement to an existing structure that decreases pre-existing distance to waterway	X	X	X
Accessory structure ⁶ not meant for human habitation and not larger than 500 sq. ft	P	X	C
Accessory structure ⁴ built human habitation and/or larger than 500 sq. ft	X	X	X
On-site septic and water supply systems ⁶	P	X	C
At-grade parking for existing buildings	P	C	C
Open fencing and elevated signage	P	C	C
RV parking, fully licensed and ready for highway use	P	X	C
RV parking, unlicensed or not drivable	X	X	X
Storage or junk yards	X	X	X
Fill ⁶ as needed to elevate existing structures	C	C	C
Fill	X	X	X
Critical facilities	X	X	X
New or replacement storage tanks	C	X	C
Grading, excavation or creation of a pond	C	C	C
Maintenance of existing road/bridge/culvert/channel stabilization, not including expansions	A	A	A
Road improvements/expansions	C	C	C
Exclusively recreational stream crossings that do not require a SAP and span top-of-bank	P	P	A
Bridges, culverts, channel management, and functionally dependent uses ⁶ that have coverage under a SAP	C	C	A
Subdivision of land ⁶	C	C	C
Trail maintenance and expansion without stabilization	A	A	A
Building utilities ⁶	P	C	C
Power generation infrastructure and facilities not otherwise regulated by 30 V.S.A. Chapter 5 § 248	C	X	C
Nonconforming structure repair, relocation, replacement or enlargement	C	C	C
Removal of structure in whole or part ⁷	A	A	A
Silvicultural activities ⁸	A	A	A
Agricultural activities ⁹	A	A	A
All development not otherwise noted	X	X	X

⁵ FMV = Fair Market Value

⁶ See appropriate Technical Provisions in this bylaw.



760.7 Technical Provisions

The criteria below are the minimum standards for any development which is permitted (P), exempt (A), approved via conditional use approval (C), or granted via variance or waiver in Regulated Flood Hazard Areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area Development Standards

1. *All development* shall be:
 - a. Reasonably safe from flooding and fluvial erosion risk;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage¹⁰;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service Facilities designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards; and
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes.
2. *Within any SFHA*, no development shall be permitted without first determining the base flood elevation and demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachments in the municipality, will not cause any increase in the BFE. This demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a licensed professional engineer.
3. *New Residential Structures or Residential Structures to be substantially improved in Zones A, A1-30, AE, and AH* shall be located such that the lowest floor is at least two feet above base flood elevation. This must be documented in as-built condition, with a FEMA Elevation Certificate.
4. *Non-residential structures in the SFHA to be substantially improved* shall:
 - a. Meet the elevation standards for Residential Structures outlined above in 760.7.A3 of this bylaw; or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary Facilities designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and



effects of buoyancy. A permit for flood-proofing shall not be issued until a licensed 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.

5. *Fully enclosed areas below grade on all sides* (including below grade crawlspaces and basements) are prohibited.
6. *Fully enclosed areas that are above grade on all sides*, but below the lowest floor, below BFE and/or are subject to flooding, shall:
 - a. Be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed and constructed 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 licensed professional engineer or architect, or meet or exceed the following minimum criteria: (1) 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; (2) The bottom of all openings shall be no higher than one foot above grade; and (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use.
8. *Accessory structures*

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- a. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- b. floor area shall not exceed 500 square feet.
- c. the structure will have a low damage potential.
- d. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- e. power lines, wiring, and outlets will be elevated to one foot above the base flood elevation.
- f. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- g. sanitary Facilities are prohibited.
- h. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of



equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

- I. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - II. the bottom of all openings shall be no higher than one (1) foot above grade.
 - III. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
9. If a variance is obtained according to Section 760.9 of this bylaw, *all Manufactured homes, and any improvements thereto*, shall be:
- a. placed on a permanent foundation;
 - b. elevated so that the lowest floor of the Manufactured home is at least two feet above the base flood elevation;
 - c. anchored to resist flotation, collapse, or lateral movement; and
 - d. have all ductwork and utilities including HVAC/heat pump elevated to two feet above the base flood elevation.
10. *Historic Structures*
Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this bylaw, must comply with all bylaw requirements that do not preclude a structure or district's continued historic designation. Documentation that a specific bylaw requirement will cause removal of the structure, or district that the structure lies within, from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from bylaw requirements will be the minimum necessary to preserve the historic character and design of the structure and/or district.
11. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
12. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
13. *On-Site waste disposal* systems shall be located to avoid impairment to them or contamination from them during flooding.
14. *Streets* finished elevation shall be no more than one (1) foot below the base flood elevation.
15. *Subdivisions, Manufactured Home Parks, and Planned Unit Developments* must be accessible by dry land access outside the special flood hazard area. All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in FEMA Identified SFHA's where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements



and processing fees shall be the responsibility of the applicant. If such a subdivision is proposed in a flood prone area, assure that:

- a. Such proposal minimizes flood damage;
- b. Is proposed to be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service Facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- c. Adequate drainage is provided to reduce exposure to flood hazards; and
- d. New parcels created by subdivision require a reasonable development envelope that conforms to all-natural hazard and dimensional standards in this bylaw without requiring a variance or waiver.

16. If *Fill* is used to elevate structures above the base flood elevation, it shall:

- a. extend laterally at least fifteen (15) feet beyond the building line from all points;
- b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- d. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Zoning Administrator; and
- e. be used to the extent to which it does not adversely affect adjacent properties.
- f. Fill shall be inspected and approved by the ZA or a professional engineer prior to placement of any structure atop fill.

17. *Storage* of all materials that are buoyant, flammable, explosive or in times of flooding, could be injurious to human, animal, or plant life, shall be stored at or above one foot above the base flood elevation or floodproofed to the maximum extent possible, including being firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

18. *Existing residential and non-residential buildings, including Manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

19. *Anchoring*

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the base flood elevation shall be securely anchored or affixed to prevent flotation.



20. *Floors, Walls and Ceilings*

- a. Wood flooring used at or below the base flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- b. Plywood used at or below the base flood elevation shall be of a "marine" or "water-resistant" variety.
- c. Walls and ceilings at or below the base flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- d. Windows, doors, and other components at or below the base flood elevation shall be made of metal or other "water-resistant" material.

21. *Paints and Adhesives*

- a. Paints and other finishes used at or below the base flood elevation shall be of "marine" or "water-resistant" quality.
- b. Adhesives used at or below the base flood elevation shall be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) used at or below the base flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

22. *Electrical Components*

Electrical distribution panels shall be at least three (3) feet above the base flood elevation. Separate electrical circuits shall serve lower levels and shall be dropped from above.

23. *Equipment*

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the base flood elevation.

24. *Fuel Supply Systems*

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. All components located below the base flood elevation shall be securely anchored or affixed to prevent flotation or unmooring. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

B. *Floodway Areas*

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b. Not increase any risk to surrounding properties, Facilities, or structures from erosion or flooding.

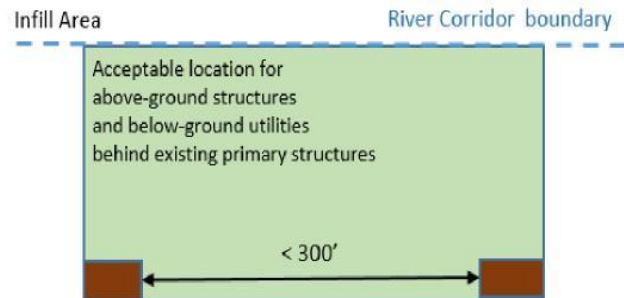
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. River Corridor Development Standards

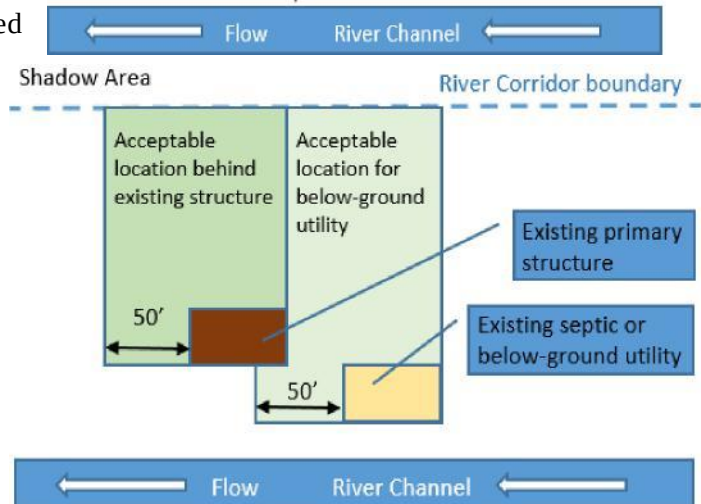
The criteria below are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

1. In a designated center that lies in the River Corridor, infill development is allowed provided that the location of said development is not less than the distance between pre-existing adjacent structures and the top of bank.
2. Development outside of designated centers shall meet the following criteria:

- a. In-Fill Between Existing Development: Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet, or

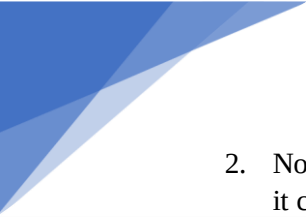


- b. Down River Shadow: Permitted improvements that are adjacent to existing structures shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system.
3. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.



4. Accessory structures may be located within 50 feet of the existing primary building provided that the location is not less than the distance between the existing primary structure and the top of bank.
5. Proposals that do not meet the infill or shadowing criteria in section 760.7.C.2 a or b must demonstrate and the DRB must find that the proposed development will:
 - a. Not increase the susceptibility of that or other properties to fluvial erosion damage;

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- b. Not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
 - c. Not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events;
 - d. Not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
 - e. Not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and
 - f. Not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities downstream locations.
- 6. Bridge and culvert projects must have a Stream Alteration permit.
 - 7. Channel management activities must be authorized by the Vermont Agency of Natural resources.
 - 8. Recreational Vehicles in the River Corridor shall be fully licensed and ready for highway use and be located no closer to top of bank than the primary structure on the property.
 - 9. Storage of all materials that are buoyant, flammable, explosive or in times of flooding, could be injurious to human, animal, or plant life, shall be floodproofed to the maximum extent possible, including being firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - 10. The DRB may request or consider additional information to determine if the proposal meets the standards listed in 760.5 C.5, including:
 - a. a description of why the shadowing and infill criteria in 760.7.C.2 a or b cannot be met;
 - b. data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards;
 - c. Comments provided by the DEC Regional Floodplain Manager on whether or not the proposal meets the River Corridor Performance Standard.
- D. Alteration or Relocation of Watercourse
- 1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent towns which may be affected by such action have been notified by the town, and until all required permits or approvals have first been obtained from the Vermont Agency of Natural Resources.

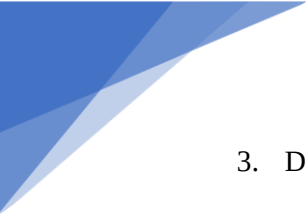
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2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not decrease stream stability, or reduce or impede the flood carrying and sediment transport capacity of the watercourse in any way.
 3. In addition, FEMA shall be notified prior to any alteration or relocation of any watercourse.

NOTE: The applicant is responsible for all fees associated with processing Letters of Map Change.

- E. Any new construction, development, uses or activities allowed within any Regulated Flood Hazard Area shall be undertaken in strict compliance with the provisions contained in this bylaw and any other applicable codes, bylaws and regulations.
- F. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “Repetitive Loss” shall be undertaken only in full compliance with the provisions of this bylaw.

760.8 Enforcement and Penalties

- A. This bylaw shall be enforced under the town zoning bylaw in accordance with 24 V.S.A. Chapter 117 § 4451, § 4452 and 24 V.S.A. Chapter 59 § 1974a.
- B. Whenever the Zoning Administrator or other authorized town representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this bylaw, or of any regulations adopted pursuant thereto, the Zoning Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
 1. Be in writing;
 2. Include a statement of the reasons for its issuance;
 3. State that the alleged offender has an opportunity to cure the violation within seven days of receipt;
 4. State that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days within the next succeeding 12 months;
 5. Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; and,
 6. Contain an outline of remedial actions which, if taken, will affect compliance with the provisions of this bylaw.
- C. Copies of the notice of violation will be:
 1. Mailed to the Vermont NFIP Coordinator and, within 30 days be
 2. Filed in the land use permit files; and,



3. Delivered to the town clerk for recording in the land records.

- D. After seven days, if the violation has not been remedied, in accordance with 24 VSA Chapter 59 § 1974a, and Chapter 117 § 4451 and § 4452; any person who is found to have violated this bylaw shall be fined by the court not more than \$200.00 for each offense. No action may be brought under this section unless such notice as required has been given as described above in this part. In default of payment of the fine, the violator shall pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense.
- E. Within any FEMA Identified Special Flood Hazard Area, 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 a denial of flood insurance to the violator. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or bylaw, (c) a clear statement that the Zoning Administrator making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

760.9 Waivers

- A. The purpose of a waiver is to allow for the reduction of dimensional requirements that might not meet the standards necessary to grant a variance.
1. Pursuant to 24 V.S.A. § 4414(8), waivers to dimensional requirements of this bylaw may be granted by the DRB after considering the Waiver Criteria in Section 760.9.A(3) below. The burden of proof is on the applicant to demonstrate that the waiver requested meets the Waiver Criteria.
 2. A waiver may be granted to any of the dimensional requirements in this bylaw.

NOTE: This does not apply to Base Flood Elevations or elevation requirements, or to boundaries of Regulated Flood Hazard Areas. Boundaries of Regulated Flood Hazard Areas can only be changed according to section IV.D of this bylaw.

3. A waiver within the River Corridor may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
4. Waiver Criteria. The DRB may grant a waiver(s) to a dimensional requirement(s) after making findings on the following criteria:
 - a. The waiver is helpful or necessary to allow for reasonable use of the property.
 - b. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
 - c. Any adverse effects of the waiver are mitigated by design, screening, or other remedies.

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- d. The proposed project will still conform to the Putney Town Plan.
 - e. The proposed project will still conform to the purpose of this bylaw, as stated in Section II of this bylaw, and any underlying zoning district in which the land development is located.
 - f. The proposed project will not have an undue adverse effect on the following:
 - 1. Surrounding properties and property values
 - 2. The character and aesthetics of the neighborhood
 - 3. Traffic patterns and circulation
 - 4. Public health, safety, and utility services
 - 5. Stormwater management
 - 6. Water and wastewater capacity
 - 7. Disability accessibility, fire safety, and other requirements of the law
 - 8. Energy conservation and renewable energy structures
 - 9. Changes in channel location over time and the need to intervene with such changes
 - 10. Any increase in the BFE in any FEMA Identified SFHA. In A district, BFE's are determined using the methodology described in Section 760.3.C(3) of this bylaw.

B. Waiver Application and Review Process

- 1. The application shall come to the DRB either from the applicant as an appeal of a decision of the ZA or a referral from the ZA.
- 2. Requests for waivers are considered by the DRB. Any request for a waiver will be warned and a public hearing held, subject to procedures set forth in Section 760.4 of this bylaw.
- 3. The DRB shall consider the opinion of abutters in deciding whether to grant the waiver.
- 4. The DRB shall consider comments from the NFIP Coordinator at ANR in deciding whether to grant the waiver.
- 5. In granting a decision in favor of the applicant, the DRB may attach reasonable conditions, including mitigation by design, screening, or other remedy.
- 6. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.
- 7. Expiration: Waiver approvals shall expire by limitation if work is not completed within twenty-four (24) months after the date of issuance. All work must be completed as shown on any approved plan before the expiration date. One-year extensions of this deadline may be granted by the ZA prior to expiration. Requests for extensions must be made in writing.
- 8. Appeals: Any request for a Waiver that is denied may be appealed subject to Section 760.4. E. of this bylaw.



760.10 Variances

If compliance with any of the requirements of this bylaw would result in an exceptional hardship to a prospective builder, developer or landowner, the Town of Putney may, upon request, grant relief from the strict application of the requirements. Variances may be granted in writing by the DRB only in accordance with all the criteria below and in 24 V.S.A. § 4469 and 44 CFR Section 60.6.

- A. No variance shall be granted in the Special Flood Hazard Area that would cause any increase in the BFE. In A district, BFE's are determined using the methodology described in Section 760.3.C.3 of this bylaw.
- B. 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 the bylaw in the neighborhood or district in which the property is located.
- C. That the unnecessary hardship has not been created by the appellant.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Town of Putney shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this bylaw.
- F. A variance for development within the River Corridor may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
- G. Whenever a variance is granted, the Town of Putney shall notify the applicant in writing that:
 - a. The granting of the variance may result in increased premium rates for flood insurance.
 - b. Such variances may increase the risks to life and property.
- H. In reviewing any request for a variance, the Town of Putney shall consider, at a minimum, the following:
 - a. That there is good and sufficient cause.
 - b. That failure to grant the variance would result in exceptional hardship to the applicant.
 - c. That the granting of the variance will:
 - 1. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - 2. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local bylaws and regulations.

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- I. Complete record of all variance requests and related actions shall be maintained by the Town of Putney. In addition, a report of all variances granted during the year for properties within the Special Flood Hazard Area and properties insured by the National Flood Insurance Program, shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

NOTE: In granting a variance for a property within the Special Flood Hazard Area or insured by the National Flood Insurance Program, municipalities are held to the standard provided in 44 CFR 60.6. If a variance is granted erroneously, a municipality remains liable for failing to meet the minimum standards of the National Flood Insurance Program.



Glossary of Flood Regulations Definitions

Accessory Structure-- means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Area of Special Flood Hazard-- is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

Automobile graveyard-- means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include:

- a. an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist's activities comply with all applicable federal, State, and municipal law;
- b. an area used for the storage of motor vehicles exempt from registration under 23 V.S.A. chapter 7;
- c. an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or
- d. an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.

Base Flood-- means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood” or one-percent (1%) annual chance flood).

Base flood discharge-- is the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

“Base Flood Elevation” (BFE) is the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

“Basement” is any area of the building having its floor below ground level on all sides.

“Building” is a combination of materials to form a permanent structure having walls and a roof. Included shall be all Manufactured homes and trailers to be used for human habitation.

“Channel” means an area that contains continuously or periodically flowing water that is confined by banks and a streambed.

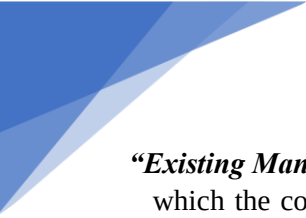
“Channel width” (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, once every 1 to 2 years.

Community” means any State or area political subdivision thereof, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Critical Facilities” - includes police stations, fire and rescue Facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment Facilities, and other structures the municipality identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery store or gas station.

“Designated center” means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

“Development” means any human-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures, the placement of Manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.



“Existing Manufactured home park or subdivision” means a Manufactured home park or subdivision for which the construction of Facilities for servicing the lots on which the Manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a municipality.

“Expansion to an existing Manufactured home park or subdivision” means the preparation of additional sites by the construction of Facilities for servicing the lots on which the Manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Fill” means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

“Flood” means (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) means the official map of a municipality, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the municipality.

“Flood Insurance Study” (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, the 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” means a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

“Flood proofing” means 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” means 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.

“Fluvial Erosion” is erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

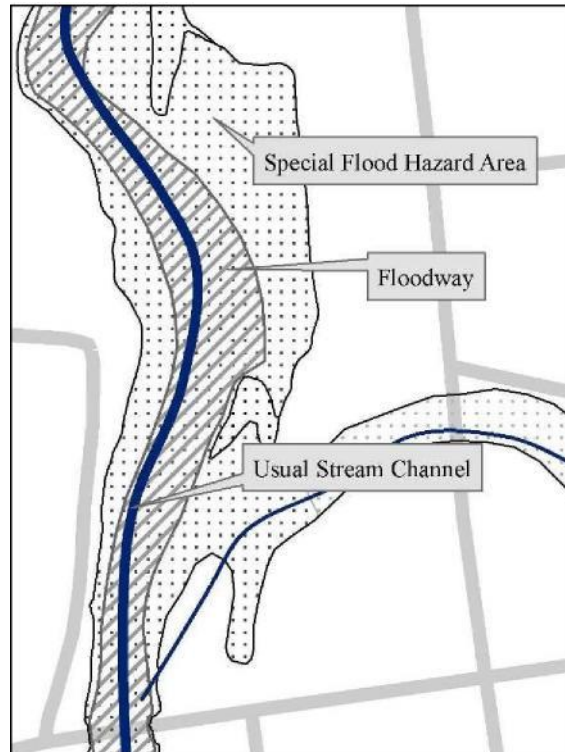
“Highest Adjacent Grade” is the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in

states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

“Identified Floodplain Area” is an umbrella term that includes all of the areas within which the municipality has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the municipality. See Section IV.A of this bylaw for what areas the community has included in the Identified Floodplain Area.

“Junk” means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.



“Junk motor vehicle” means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.

“Letter of Map Amendment” (LOMA) is an official amendment, by letter from FEMA, to an effective National Flood Insurance Program map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but a licensed engineer or surveyor is able to show that the property or structure is actually above the base flood elevation.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant partially enclosed area, used solely for parking of vehicles, building access or incidental storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not designed and built so that the structure in violation of the applicable non-elevation design requirements of this bylaw.

“Manufactured home” (or Mobile home) means 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” is a parcel (or contiguous parcels) of land divided into two or more Manufactured home lots for rent or sale.



“Minor repair” is the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

“New construction” means structures for which the start of construction commenced on or after November 1, 2018 improvements to such structures. Any construction started after 9/18/1985 and before *October 31, 2018* is subject to the bylaw in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

“New Manufactured home park or subdivision” means a Manufactured home park or subdivision for which the construction of Facilities for servicing the lots on which the Manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the most recent effective date of floodplain management regulations adopted by a community.

“Nonconforming structure” means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, bylaws, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

“Nonconforming use” means use of land or a structure that does not conform to the present bylaws but did conform to all applicable laws, bylaws, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator. Uses that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming uses.

“Nonconformity” means a nonconforming use, structure, lot, or parcel.

“Non-residential” means a commercial or mixed-use building where the primary use is commercial or non-habitational. This includes, but is not limited to: small businesses, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

“Non-substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost is less than 50 percent of the market value of the structure before the “start of construction” of the improvement.

“Person” means an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

“Post-FIRM Structure” is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of the community’s first Flood Insurance Rate Map (FIRM) dated 9/18/1985, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

“Pre-FIRM Structure” is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of the community’s first Flood Insurance Rate Map (FIRM) dated 9/18/1985, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

“Recreational vehicle” means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by

a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

“Repetitive Loss” is flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

“Regulated Flood Hazard Areas” is a term that refers to all areas defined in Section IV.A of this bylaw and regulated by this bylaw, and is the total land to which these regulations apply. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

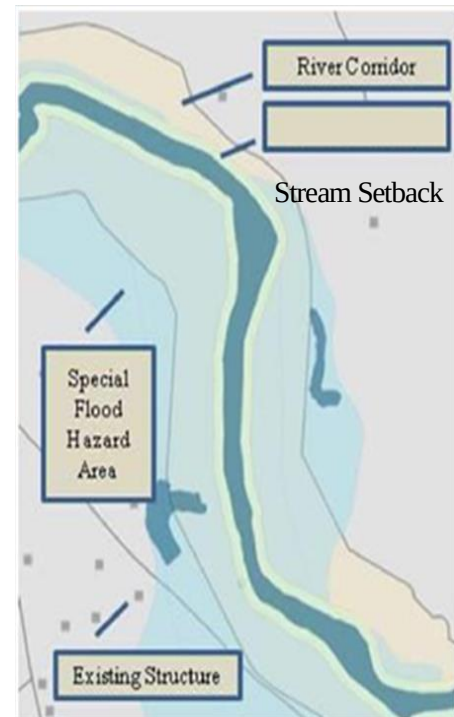
“River Corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. § 1422, and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources (ANR) on the online Natural Resources Atlas.

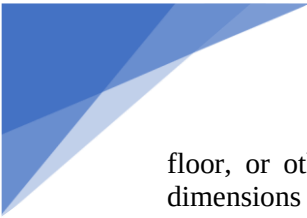
“Salvage yard” means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. “Salvage yard” also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

“Small streams” are those streams as delineated by the Vermont Agency of Natural Resources (ANR) on the online Natural Resources Atlas, with drainage areas of between .5 and 2 square miles, which, because of their low sensitivity, small watershed size, steeper valley slope, and/or valley confinement, may attain their least erosive form within an area delineated as a simple 50-foot setback measured horizontally and perpendicularly from the top of each streambank. The river corridor for small streams constitutes the stream channel plus the 50-foot setback on each side.

“Special Flood Hazard Area” (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

“Start of construction” for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date and shall be completed within twenty-four (24) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Zoning Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a Manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling,





floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

“Structure” means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a Manufactured home, and any related built systems, including gas or liquid storage tanks.

“Subdivision” is the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than five acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost 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”.

“Top of Bank” means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

“Variance” means a grant of relief by a community from the terms of a floodplain management regulation.

“Violation” means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c), (10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

ARTICLE VIII
NON-CONFORMING USES, STRUCTURES, AND LOTS
["Grandfathering"]

The following provisions shall apply to all uses, structures, and lots lawfully existing on March 7, 1978, which do not conform to the requirements set forth in these regulations and to all uses, structures, and lots established after March 7, 1978, that, although conforming to the Zoning Regulations at the time of their establishment, no longer conform by reason of amendments to these Regulations.

The words "use" and "structure" in this Article shall refer to the principal, secondary, and accessory uses and structures on a lot.

SECTION 810 NON-CONFORMING USES

- A. **Continuation of a Non-conforming Use.** Any non-conforming use may be continued indefinitely, but may not be changed, resumed after discontinuance, or expanded except as provided below.
- B. **Change of Non-conforming Use.** Any non-conforming use may be changed to another non-conforming use, providing that the new non-conforming use, in the opinion of the Development Review Board, does not increase the adverse effect on the surrounding area. Conditional Use Approval and Site Plan Approval shall also be required.
- C. **Resumption of a Non-conforming Use.** A non-conforming use which has been discontinued will be governed by the following regulations:
 - 1. A non-conforming use which has been discontinued for a period of up to one year may be resumed without Development Review Board approval.
 - 2. A non-conforming use which has been discontinued for a period of between 1 and 3 years may be resumed only if the Development Review Board finds that the resumed non-conforming use will not adversely affect the surrounding area. Conditional Use approval and Site Plan Approval shall also be required.
 - 3. A non-conforming use which has been discontinued for more than 3 years shall not be resumed, nor shall it be replaced with another non-conforming use.
 - 4. A non-conforming use which has been changed to a conforming use shall not be resumed.
 - 5. The intent to resume a non-conforming use shall not confer the right to do so.
 - 6. A non-conforming use shall be considered discontinued if substantial operation of the non-conforming use of the lot or structures on the lot has not occurred for a continuous period of time.
 - 7. In considering whether or not a non-conforming use has been discontinued, the Development Review Board shall make finding about some or all of the following factors:

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- a. Whether physical changes have been made on the lot or to a structure or sign on the lot.
 - b. Whether machinery and equipment customarily used to perform the non-conforming use have been removed from the lot.
 - c. Whether there has been a change of customary business practices.
 - d. Whether revenues have been received and expenses incurred during the period of discontinuance, and if so, to what extent and for what purposes.
 - e. Whether a lease (or a sale) of the lot for a use different from the non-conforming use has occurred.
 - f. Whether licenses or other permits necessary to perform the non-conforming use have been renewed and whether insurance coverage has been renewed.
 - g. Whether any performance of the non-conforming use that has occurred has been merely of a token extent.
 - h. Whether there has been a decrease or termination in the use of utilities, such as water, wastewater, telephone, heating fuel, solid waste disposal, and electrical usage.
 - i. Whether the non-conforming use, if formerly “open to the public,” has continued to be “open to the public.”
 - j. Whether the lot, and structures, machinery, and equipment on the lot, have received normal maintenance.
 - k. Whether there has been a decrease in traffic to and from the lot.
 - l. Whether the personnel who perform the use have been present on the lot.
 - m. Whether what may appear to be a discontinuance is in fact a seasonal shutdown, or a shutdown for repairs and renovations.
 - n. Whether discontinuance is the result of an inability to locate a tenant to continue the non-conforming use in spite of a diligent search to find such a tenant.

- D. **Expansion of a Non-conforming Use.** The Development Review Board may allow expansion of any non-conforming use on a lot or within a structure on a lot provided that such expansion does not adversely affect the surrounding area. Conditional Use Approval and Site Plan Approval shall also be required.

¹[see also Section 820.B below and Section 300.9.F above]

SECTION 820 NON-CONFORMING STRUCTURES

- A. **Continuation of a Non-conforming structure.** Any non-conforming structure may be continued indefinitely, but may not be expanded or repaired or reconstructed after destruction or damage, except as provided below.
- B. **Expansion of a Non-conforming structure.** Except as provided in Section 300.9.F above, a non-conforming structure may be expanded only in conformity with the dimensional requirements of the Zoning Regulations unless a variance from those dimensional requirements is obtained from the Development Review Board.¹

¹[see also Sections 300.9.F and 810.D above]

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- C. **Repair or Reconstruction of a Non-conforming Structure.** A non-conforming structure which has been destroyed or damaged by a fire, explosion or other catastrophe may be repaired or reconstructed within the same footprint, but only if such repair or reconstruction is commenced within two years and completed within 3 years of such destruction or damage. A zoning permit shall be required.
 - D. **Normal Maintenance and Repair of a Non-conforming Structure.** Nothing in this section shall be deemed to prevent the structural alteration or repair, the substantial rehabilitation or remodeling, or the normal maintenance of a non-conforming structure provided that such action does not increase the degree of non-conformity and/or expand the structure.

SECTION 830 ADVERSE EFFECT

In considering whether or not a change, resumption, or expansion of a non-conforming use will adversely affect the surrounding area (or a Conditional Use will adversely affect community facilities, the character of the area, or traffic - see Section 220.1 above), the Development Review Board shall make findings about some or all of the following factors:

- A. The history of use of the lot.
- B. The size and location of adjoining and neighboring lots.
- C. The uses made, or which have received zoning permits to be made, of adjoining lots and the impact of the proposal on those uses.
- D. The location of existing and proposed structures on the lot and the relation of those structures to those on adjoining lots and to the dimensional requirements of the Zoning Regulations.
- E. The objective of the zoning district in which the lot and adjoining lots are located as defined in Article III above.
- F. The suitability of the proposed expanded use to the character of the neighborhood.
- G. Whether an increase in business hours or days of operation or a change in hours of operation from daytime to nighttime or weekdays to weekends is proposed and the effect of such an increase or change on adjoining uses and the neighborhood.
- H. Whether the proposed use will result in an increase in noise, fumes, dust, or odors.
- I. Whether greater volumes of vehicular traffic will be generated and what impact this greater volume of traffic will have on the use of adjoining lots, on the neighborhood, and on pedestrian and vehicular safety.
- J. Whether there will be an increase in the number of employees.
- K. Whether there will be an increase in outdoor activity or outdoor storage.

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- L. Whether there is adequate off-street parking as required by these Zoning Regulations.
 - M. Whether there will be an increase in exterior lighting or storm water drainage on adjoining lots and in the neighborhood.
 - N. Whether there will be screening or landscaping to lessen any adverse effects on adjoining lots and the neighborhood.
 - O. Whether there is an increase in the visibility of the use from adjoining lots and from public ways.
 - P. Whether the proposed use is providing a service to the neighborhood.
 - Q. Whether there is an increase in safety risk to the neighborhood.
 - R. Whether there is a change from seasonal to year-round use.

SECTION 840 USE of NON-CONFORMING LOTS

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which it is located.



ARTICLE IX DEFINITIONS

Doubt as to the precise meaning of any word or term used in these Regulations shall be clarified by the Development Review Board, upon appeal.

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense includes the future tense; the singular includes the plural and the plural includes the singular; the word "lot" includes "plot"; the word "building" includes "structure"; the words "shall" and "must" are mandatory and the word "may" is permissive; "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; "person" includes individual, partnership, association, cooperation, corporation, company, organization or any governmental body.

Accessory Use or Structure-- A use or structure on the same lot with¹, and customarily incidental and subordinate to, the Principal Use or structure.

¹[except as provided in Section 310.3.D]

Administrative Officer/Zoning Administrator-- The Town Officer responsible for administration of these Zoning Regulations, and related matters, as set forth in the Act. Said Officer shall literally enforce the provisions of these regulations and in so doing shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these regulations.

Affordable Housing--Affordable housing units include rental or owner-occupied dwelling units which are designed so that they will remain affordable to below median household incomes (as defined and reported by the Vermont Agency of Housing and Community Affairs.)

Agriculture--The growing and harvesting of crops; the raising of livestock; the operation of orchards, including maple sugar harvesting; the sale of farm produce on the premises where produced; the use of farm structures and the storage of equipment incidental to the above.

Alter, Alteration--Structural change, rearrangement, change of location, or addition to a structure, other than repair and maintenance to the structure and modification of equipment in the structure.

Bar, Tavern--A room, business or establishment where the sale and consumption of alcoholic beverages are the primary activities.

Base Flood--means the flood having a one percent chance of being equaled or exceeded in any given year.

Bed & Breakfast-- A dwelling in which rooms are rented on a daily or weekly basis to transients. Distinguished from a hotel/motel in that the owner lives on the property or on an adjacent property, the use does not change the residential character of the neighborhood, and the food service is for guests only.

Boarding, Rooming House or Inn--Building containing twelve (12) or fewer rooms which are rented as sleeping units.

Building--Any structure over 100 sq. ft. in floor area¹ which is permanently affixed to the land and has one or more floors and a roof.

¹[Except Wireless Telecommunications Facilities where no minimum floor area shall apply and the need for a floor and a roof shall not apply.]

Campground--Land used for temporary occupancy by two or more tents, trailers, or other movable dwellings.

Cemetery--Property used for interring the dead.



Change of Use--To alter or vary the function, service or purpose of a building, structure or lot or a portion thereof from one use to another use.

Church--A structure for religious use.

Community Facility--A building used by a nonprofit or public agency for a community-wide program.

Conditional Use--A use allowed in a particular zoning district only upon a finding by the DRB that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in these Regulations.

Conference Center-- A building, the principal function of which is to provide space: 1) for public commercial displays for one or more business, or 2) to accommodate meetings or conferences for 50 or more people. A church, school auditorium, or public building shall not be considered a conference center.

Conservation--The non-intensive use of undeveloped land and which does not involve the erection of buildings.

Contractor's Yard--A lot, either with or without buildings, used for the storage of vehicles which are registered and in running condition, of stock, of equipment and/or inventory related to a construction business.

Child Care Facility--A home or facility where the owner or operator is to be licensed or registered by the state for child care. [see Section 505.B above]

Depth--(see Lot Width/Lot Depth Minimum)

Driveway--Vehicular entrance and access way to a lot which intersects and connects to a public or private road.

Dwelling--One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities. It shall not include motel, hotel, boarding house or similar structures.

Dwelling, One-Family, Two-Family, Three-Family, Four-Family,

Multi-Family--A building containing respectively 1, 2, 3, 4, or 5 or more individual dwelling units.

Enlargement--An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in the portion of a lot occupied by an existing use.

Extension--An increase in the amount of floor area used for an existing use within an existing building.

Extraction of Earth Resources/Quarrying--The extraction and/or quarrying and/or processing and/or removal from a lot of soil, sand, rock, gravel or minerals for sale or trade, except when incidental to construction of a parking area or building on the same lot.

Family--One or more persons related by blood, marriage, or adoption, or a group of not more than 6 persons unrelated by blood or marriage, living together as a single household.

Floor Area--The sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings.

Forestry--The growing and harvesting of forest products.

Garden/Farm Supply or Nursery--A retail business or commercial activity concerned with the sale of tools, small equipment, plants and related goods used in gardening or farming.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

[see Section 505.A above]



Height--Vertical distance measured from the average elevation of the proposed finished grade at the front of the building or structure to the highest point of the roof for flat and mansard roofs, or to the midpoint between the eaves and ridgeline for other roofs, or to the highest point of a structure without a roof such as an antenna or a tower. Rooftop apparatuses such as chimneys, vents, air conditioning units, Type B Wireless Telecommunications Facilities*, and solar collectors shall not be included in the measurement. The height of a structure supporting Type A, C, D, or E Wireless Telecommunication Facilities shall include the height of the support structure and all appurtenances thereon, such as antennas and lightning rods.*

*[see Section 607]

Home Industry--A business use conducted within a residence or its accessory structures or outside on a lot where the resident is the principal proprietor and no more than 2 non-residents are employed. [see Section 503 above]

Home Occupation--A business use conducted within a portion of a dwelling or within the dwelling's accessory structure or structures. The occupation must be customary in residential areas and not change the character thereof. [see Section 502 above]

Homeowners Association--A community association that administers and maintains common property and common elements.

Hotel/Motel--Building containing more than 12 rooms which are rented as sleeping units for transients and may provide for food preparation in a central dining area.

Interested Person--Any of the entities defined under 24 VSA 4464(b).

Kennel--An establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold.

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

Light Industry--Industrial activities which meet the standards as set out in Section 508 of these Regulations.

Lot--is a parcel of land of any size that is either:

- a. Held in individual and separate and non-affiliated ownership by deed from a continuous lot or lots in existence on March 7, 1978, and thereafter, or
- b. Is a lot that is part of a subdivision plat approved by the Planning Commission after March 7, 1978, or
- c. Is a lot that did not require subdivision plat approval from the Planning Commission after March 7, 1978, but did need, and did receive, after March 7, 1978, a zoning permit for subdivision under these Zoning Regulations.

Lot Line--A boundary of a lot.

Lot Width/Lot Depth Minimum--The two dimensions of a rectangle as follows: On all lots, it must be possible to place within the area of the lot a rectangle whose sides are each equal to the minimum lot width and minimum lot depth requirement as specified under Section 320 (Zoning Districts).

Manufacturing, Packaging or Processing--Any process whereby the nature, size or shape of articles or raw materials is changed, or where articles are assembled and packaged.

Marina--A facility for storing, servicing, fueling, berthing and/or securing of recreational boats.

Mobile Home--(As defined in 10 VSA 6201.)

Mobile Home Park--(As defined in 10 VSA 6201.)

Motor Vehicle Fuel Station--Land or structures used for the sale of petroleum products for the propulsion of motor vehicles.



Motor Vehicle Sales--Land or structures used for the dismantling, storage, and/or sale of 6 or more motor vehicles.

Motor Vehicle Service Station--Land or structures used for the maintenance and servicing of motor vehicles as a business.

Municipal Utility or Safety Related Facility--A use of a lot, or portion thereof, or structures for Town operations related to the provision of services.

Museum--A building or area used for exhibiting objects connected with literature, art, science, history, or nature.

Non-Conforming Lots or Parcels--Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(13).

Non-Conforming Structure-- A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(14).

Non-Conforming Use-- Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(15).

Non-Sewered Lot--A lot which does not utilize, or is not proposed to utilize, the municipal wastewater treatment facility for sewage disposal.

Nursing Home--A place, other than a hospital, which maintains and operates facilities and provides nursing care, for profit or otherwise.

Office--A building or space used primarily for conducting the affairs of one or more businesses, professions, services, industries, studios or governmental agencies.

Permitted Use--Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and which is not a Conditional Use.

Planned Educational Development (PED) --An area of land containing two or more buildings to be developed as a single entity for an educational institution.

Planned Residential Development (PRD)--An area of land to be developed as a single entity for 2 or more dwelling units which do not correspond in lot size, dimensional requirements or type of dwelling to the regulations of the district in which it is located.

Planned Unit Development (PUD)--an area of land to be developed as a single entity for a number of dwelling units in 2 or more structures and/or commercial or industrial uses, if any, the plan for which does not correspond in lot size, or bulk or type of unit, for the zoning district in which it is located.

Principal Building--A structure, or where the context so indicates, a group of structures, in which the primary use of the lot on which the building is located is conducted.

Principal Use--The chief activity carried out on a lot.

Public Notice--The form of notice prescribed in 24 VSA 4444 and 1 VSA Chapter 5, or 4464.

Quarrying--(See Extraction of Earth Resources)

Recreation, Indoor--Leisure related business located within a building, such as bowling alley, theater, skating rink, gymnasium, health center or similar places.

Recreation, Outdoor--Uses, such as golf courses, marinas, recreational camps, ski trails and support services, hunting preserves, riding stables or sport grounds.



Renewable Energy Resource--Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

Residence--A building or part of a building containing one or more dwelling units.

Residential--Pertaining to a residence.

Residential Care A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(1).

[see Section 505.A above]

Resource Industry--The processing and marketing of food, agricultural, or forest products which may be imported from off the site.

Restaurant--A business or establishment the primary function and design of which is for serving food and/or beverages for consumption on the lot.

Retail Business or Service--A business or establishment selling or delivering goods, wares, merchandise or services directly to the customer.

Riverine--relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

Road, Town-Maintained--Public road or right-of-way owned by the town and meeting State Standards for Class 1, 2, or 3 highways.

Secondary Use--A use allowed in the district that is conducted on the same lot as a primary use, and which meets the requirements established in Section 310.4 of these Regulations. These uses are not customarily incidental or subordinate to the primary use, as are Accessory Uses or structures. [An example of a secondary use is the renting of the third floor of a primarily retail-use building for dwelling purposes.]

Setback--The required distance from a lot line to the nearest part of a building or structure on a lot.

Sewered Lot--A lot which utilizes, or is proposed to utilize, the municipal wastewater treatment facility for sewage disposal.

Site Plan--The plan for the development of a lot, including any proposed change in use, which plan shall be drawn in accordance with the requirements of these Regulations.

Structure--An assembly of materials over 100 sq. ft. in floor area¹ for occupancy or use, including, but not limited to, a building, mobile home, or trailer.

¹[Except Wireless Telecommunications Facilities where no minimum floor area shall apply.]

Subdivision--Division of any parcel of land for the purpose of conveyance, transfer or ownership, lease, improvement, building, development or sale, whereby 2 or more lots, blocks or parcels are created. The term "subdivision" includes re-subdivision. For the purposes of these Regulations, the word "lots" shall also mean units for any project involving condominiums, cooperatives and/or the designation of Planned Development.

Subdivision Plat--An application for subdivision of 5 or more lots submitted to the Planning Commission under the Town of Putney Subdivision Regulations, including drawings and other information.

Theater or Cultural Center--Land or buildings used for the presentation of plays, concerts, or movies or the display of art.

Trailer Camp or Tent Sites--means any tract or parcel of land occupied by one or more automobile trailers for a brief period for vacation purposes. Tents, temporary cabins or other temporary shelters on such a tract of land shall be classified the same as trailers.

Travel Trailer/Recreational Vehicle--A vehicle capable of being used as a seasonal sleeping or living quarters, whether self-propelled or towed, or a camper body mounted on a motor vehicle.



Trucking or Freight Terminal--A place where goods transfer between modes of travel; a terminating point where goods are transferred from a truck to a storage area or to other trucks, or are picked up by other forms of transportation.

Use--Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied. A use is also any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Waiver --An adjustment to a specific dimensional requirement of the Zoning Ordinance.

Warehouse or Storage--Facilities for handling freight and/or goods for daily use or storage, with or without maintenance facilities.

Wholesale Business--an establishment for the sale of goods and merchandise in wholesale lots including wholesale storage.

Width--(See Lot Width/Lot Depth Minimum)

Wireless Telecommunications Facility--All equipment (including repeaters) and the locations of equipment with which a telecommunications provider transmits and/or receives the waves which carry their services and their support structures. This facility may be sited on one or more towers or structure(s) either owned by the provider or owned by another entity.

Yard, Front -- All sides of a lot adjoining Town- or State-owned highway rights-of-way, or, in the case of a lot which gains access to a Town- or State-owned highway right-of-way by means of a private right-of-way, the side of the lot where the right-of-way gives access to the lot.