

Hardwick Planning Commission
March 8, 2016 Work Session
Hardwick Memorial Building
Minutes

HPC Members Present: Diane Grenkow, Chair Dave Gross, Jim Lewis, Joyce Mandeville, Ken Davis, and Shawn Ainsworth
HPC members Absent: N/A

Also Present: Kristen Leahy, Hardwick Zoning Administrator (ZA); Alison Low, Planner for Northeastern Vermont Development Association (NVDA)

Dave Gross opened the meeting at 6:32 pm.

Motion was made to approve the agenda as published by Joyce Mandeville, Ken Davis seconded. All members were in favor.

Ken Davis moved to approve the February 9, 2016 minutes as written, Ken Davis seconded. All members were in favor.

Alison Low from NVDA met with the HPC to begin the process of updating the technical deficiencies of the Hardwick Unified Development Bylaws. Alison presented the first draft of Articles 1, 2, 3, and 7. She suggested reviewing the articles in logical rather than sequential order – 1, 2, 3 and 7 will be first and the more complex issues in 4, 5, 6 and the Article 2 tables will follow.

The draft version assumes minimal compliance with the National Flood Insurance Program requirements. Discussion about increasing levels of compliance will be held later in the updating process.

As soon as finalized draft articles are available, they will be posted on the Town website and Kristen will forward the link to Front Porch Forum and to the members of the Hardwick Selectboard.

Page by page review of the draft version ensued (draft version included). On page 3 (Section 1.2), the suggestion was made to present a more user-friendly version of the definition of “land development.” On page 22, lines 13-16, (Section 7.1 D) regarding expiration of permits, Alison suggested incorporating the phrase “substantially” commenced. Ken Davis had concerns about this terminology. Alison will bring examples and a definition of “substantially commenced” to the next meeting and Ken will render an opinion at that time. Most changes were in relation to the minimal compliance with the National Flood Insurance Program. Performance Standards (Section 3.11) will be addressed in the next stage of updating.

Discussion was held regarding the clarity of the sign measuring description in 3.13. Dave Gross will research examples from other towns for the next meeting. The review of Sections 3.13, 3.14, and 3.15 will occur at the next HPC meeting.

The next scheduled meeting will be April 12, 2016 at 6:30 pm. Alison Low will be in attendance.

Motion to adjourn at 8:15 pm made by Dave Gross, Shawn Ainsworth seconded. All members were in favor.

Respectfully submitted,
Kristen Leahy, ZA

Please Note: The following is a draft and may not accurately reflect actual bylaws due to the placement of the text boxes on individual pages. Complete and accurate drafts will become available in the following weeks.

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ARTICLE 1. AUTHORITY & PURPOSE

Section 1.1 Enactment

- (A) Unified Development Bylaws (~~UDB~~) for the Town of Hardwick are hereby established in accordance with the Act. The following text and maps which constitute these regulations shall be known and cited as the “Town of Hardwick Unified Development Bylaws-” and shall hereinafter referred to as “the Bylaws” in this document.

Section 1.2 Purpose

- (A) The purposes of the Unified Development Bylaws are to:

- encourage the appropriate and efficient use of all lands in the Town of Hardwick in a manner which promotes and protects public health, safety and the general welfare of the community;
- facilitate the adequate and efficient provision of public facilities and services;
- implement the Hardwick Town Plan as most recently amended;
- integrate all administrative and regulatory provisions of zoning, ~~and~~ subdivision, flood hazard, and telecommunication regulations as authorized by the Act [~~\$4401 and \$4401~~] into a single UDBBylaw;
- further the goals and purposes established in the Act [§4302];
- 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;
- ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair floodplain services,
- manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Hardwick, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available; and
- protect the individual property rights of landowners to the extent consistent with the other purposes of these Bylaws as stated above.

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

Land Subdivision: The division of a parcel into two or more parcels, for the purposes of immediate or future sale, conveyance, or development. The term “subdivision” includes resubdivisions, amended subdivisions, lot line (boundary) adjustments, and the division of land held in common among several owners.

Section 1.3 Application & Interpretation

- (A) The application of these Bylaws is subject to all provisions of the Act. No land development or land subdivision shall commence within the Town of Hardwick except in conformance with the requirements of these Bylaws. Any land development or land subdivision not specifically authorized under these Bylaws, or otherwise exempted under Section 6.1 and/or Section 7.2, is prohibited.
- (B) All uses or structures lawfully in existence as of the effective date of these Bylaws are allowed to continue indefinitely. Changes, alterations or expansions to pre-existing structures or uses shall be subject to all applicable requirements of these Bylaws, including provisions applying to nonconforming

uses and/or nonconforming structures under Section 3.9.

- (C) These Bylaws ~~is-are~~ not intended to repeal, annul or in any way to impair any permit previously adopted or issued, nor shall they in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations.- Where these Bylaws 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 Bylaws shall control.
- (D) In the event of changes to the Act which nullify or supersede a specific provision of these bylaws, the requirements of the Act, as most recently amended, shall control.

Section 1.4 Adoption & Effective Date

- (A) ~~In accordance with the Act [§4442], t~~These Bylaws shall take effect 21 days after the date of its adoption by the Hardwick Selectboard. Upon the effective date of these Bylaws, the zoning Bylaws previously in effect (“Hardwick ~~Zoning and Subdivision~~Unified Development Bylaws,” effective ~~October 30, 2003~~38) are deemed repealed.
- (B) These Bylaws may be amended or repealed in accordance with the requirements and procedures established in the Act [§§ 4441, 4442].

Section 1.5 Severability

The provisions of these Bylaws are severable. The invalidity of any provision or application of these Bylaws shall not invalidate any other part.

ARTICLE 2. ZONING DISTRICTS

Section 2.1 Establishment of Zoning Districts & Map

- (A) The Town of Hardwick is hereby divided into the following zoning districts as described in the accompanying tables (Tables 2.1 - 2.8) and shown on the official zoning map and associated overlays:
- Central Business (CB) District
 - Village Neighborhood (VN) District
 - Highway Mixed-Use (HM) District
 - Compact Residential (CR) District
 - Industrial (I) District
 - Rural Residential (RR) District
 - Forest Reserve (FR) District
 - Flood Hazard Overlay (FHO) District
- (B) The location and boundaries of each zoning district are depicted on the official “Town of Hardwick Zoning Map” and the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program maps, which are adopted by reference and declared to be part of these bylaws. The official zoning map ~~and associated overlays~~ may only be altered by amendment to these bylaws in accordance with Section 1.4 and the Act [§§4441, 4442].
- (C) The official zoning map and overlays shall be located in the Hardwick Town Office, and shall be identified by the signatures of the Selectboard, as attested to by the Town Clerk. These maps shall be the final authority as to the zoning status of any lands or waters in the town.

Section 2.2 Zoning District Boundary Interpretation

- (A) Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlays, the following rules shall apply:
- (1) Boundaries indicated as following roads, transportation or utility rights-of-way shall be interpreted to follow the centerlines of such features.
 - (2) Boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features.
 - (3) Boundaries indicated as following shorelines shall be interpreted as the normal mean water level. In the event of change in the shoreline the boundary shall move with the shoreline.
 - (4) Boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary.
 - (5) Boundaries indicated as following contour lines shall be interpreted to follow a constant, specified elevation as measured from mean sea level or other accepted reference datum.
 - (6) Boundaries indicated as following compass headings shall be interpreted to follow such headings.
 - (7) Boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.
 - (8) Distances not specifically indicated shall be determined by the scale on the official zoning map.
- (B) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which

references a district boundary line, after the effective date of these bylaws, shall not affect the location of the district boundary line except with regard to shorelines, streams and rivers as specified above.

- (C) ~~Where available (i.e., in Zones 1–A30, AE and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the flood hazard area overlay district provisions of these bylaws. In areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e., Zone A), base flood elevations and floodway information available from state or federal agencies or other sources shall be obtained and reasonably used to administer and enforce flood hazard area overlay provisions.~~ Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.
- (D) When the Zoning Administrator cannot definitely determine the location of a district boundary, the ~~Planning Commission~~ Development Review Board and/or appropriate state or federal official may be consulted prior to issuing a determination. A determination by the Zoning Administrator regarding the location of a district boundary may be appealed to the ~~Board of Adjustment~~ Development Review Board under Section 7.3. If the applicant appeals the determination of the Flood Hazard Overlay boundary made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.
- (E) Where a district boundary divides a lot in single ownership as of the effective date of these bylaws, or any amendment thereto, the ~~Board of Adjustment~~ Development Review Board may permit, subject to conditional use review under Section 5.2, the extension of district standards for either portion of the lot up to 30 feet beyond the district line into the remaining portion of the lot.
- (F) Where a lot is divided by a town boundary, the standards of these bylaws shall be applied to that portion of the lot located in the Town of Hardwick in the same manner as if the entire lot were located in this town.

Section 2.3 Application of District Standards

- (A) All uses and structures, unless specifically exempted under Section 7.2, must comply with all prescribed standards for the district in which they are located, as set forth in Tables 2.1-2.8 and as defined in Section 8.2, unless otherwise specified in these bylaws. The standards for each district shall apply uniformly to each class of use or structure, unless otherwise specified. Nonconforming uses and noncomplying structures in lawful existence as of the effective date of these bylaws shall be regulated in accordance with Section 3.9.
- (B) Overlay district standards shall be applied concurrently with the standards for underlying zoning districts. Where overlay districts impose more restrictive standards on the use of land or a structure, the standards of the overlay district shall apply.
- (C) Uses for each district are classified as - **“permitted uses”** to be reviewed by the Zoning Administrator in accordance with Section 7.1, or as **“conditional uses”** to be reviewed by the ~~Board of Adjustment~~ Development Review Board in accordance with Section 5.2. Both permitted and conditional uses are subject to applicable district requirements and general standards set forth in Article 3. Variances from the provisions of these bylaws may be considered only on appeal to the ~~Board of Adjustment~~ Development Review Board, in accordance with Sections 7.3 and 7.4.
- (D) Within specified zoning districts, the lot size and/or density requirements may vary depending on the availability of municipal sewer and/or water. For this purpose, the following lot classifications are

established:

Class 1 – Served by both municipal water and sewer.

Class 2 – Served by either municipal water OR sewer, but not both.

Class 3 – Not served by municipal water or sewer.

~~(E) All uses not specifically allowed under, or exempted from, the provisions of these bylaws, are prohibited.¹~~

¹ This appears to repeat Section 1.3(A)

ARTICLE 3. GENERAL REGULATIONS

Section 3.1 Applicability

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

Section 3.2 Damaged Structures

- (A) No zoning permit is required for the stabilization of damaged structures located outside of the Flood Hazard Overlay District to prevent hazards to public health or safety, or to adjoining properties, structures or uses (e.g., fire, collapse, squatting); nor for the timely repair or reconstruction of damaged structures to the extent of their prior condition and use, provided such stabilization, repair or reconstruction occurs within 12 months of the date the structure is damaged. Reconstruction that results in changes in density, dimension or use under applicable provisions of these regulations shall require a zoning permit issued in accordance with Section 7.1.
- (B) If an owner has not stabilized, repaired or reconstructed a structure that has been demolished, destroyed, or substantially damaged within 12 months of the date of damage or demolition, and the structure is determined by the Town Health Officer to present a hazard to public health and safety, the owner shall remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.
- (3) The repair or reconstruction of damaged structures located in the Flood Hazard Overlay District shall be subject to the provisions of Section 5.3 of these Bylaws.

Section 3.3 Access & Frontage Requirements

- (A) ~~In accordance with the Act [§4412(3)], n~~No land development may be permitted on lots which do not have either frontage on a public or private road or public waters or, with the approval of the ~~Planning Commission~~Development Review Board, access to such a road or waters by a permanent easement, right-of-way or fee-simple ownership at least 50 feet in width and fully located outside of the Flood Hazard Overlay District². In granting approval under this Section, the ~~Commission-Development Review Board~~ shall consider the intended use and shall ensure the proposed access does not pose a hazard to traffic and pedestrian safety.~~:-~~
- (B) The approval of access to a non-frontage lot shall be done in Site Plan Review as provided in Section 5.2 unless the proposed development is subject to other development review processes such as Conditional Use Review, Planned Unit Development, or Subdivision Review. In that case, the review and approval of access shall be incorporated into the appropriate development review process.
- (B) Access onto public roads is subject to the approval of the Hardwick Selectboard, and for state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with all municipal land use regulations is required. Access permits must be obtained prior to the issuance of a zoning permit.
- (C) With the exception of parcels in agricultural or forestry use, no lot created after the effective date of these bylaws shall be served by more than one (1) access or driveway unless otherwise approved under conditional use review in accordance with Section 5.2. The consolidation of existing accesses and/or shared access between adjoining lots is encouraged and may be required as a condition of such approval. Access widths shall be limited to that approved, and not extend along the length of road frontage.
- (D) No driveway intersection with a public road shall be located within seventy-five (75) feet of a street line intersection.

² Not necessarily required as per the NFIP, but a very good idea!

Section 3.4 Conversions & Changes of Use

- (A) Conversions or changes in the use of land, existing buildings, or other structures are subject to the following:
- (1) The proposed use shall be subject to all the requirements of these ~~B~~bylaws pertaining to such use, including but not limited to any district, general or specific requirements, as well as all other municipal regulations currently in effect.
 - (2) An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure is located on a separate lot which conforms to lot size, setback, parking and other requirements applicable to the proposed use, independent of the principal use or structure on the lot (see Section 3.8). Such a conversion requires a zoning permit issued by the Zoning Administrator in accordance with Section 7.1.
 - (3) A conversion or change of use from one permitted use to another permitted use which involves the creation of new floor space or outdoor storage space, requires additional on-site parking, or has different minimum lot size or dimensional requirements, will require a zoning permit issued by the Zoning Administrator under Section 7.1.
 - (4) A conversion or change from a permitted use to a conditional use, or from a conditional use to a different conditional use, shall be approved by the ~~Board of Adjustment~~Development Review Board subject to conditional use review under Section 5.2. Such a change of use shall constitute the discontinuance of a previously approved conditional use unless the Board specifically authorizes the continuation of the prior use as part of its approval under Section 5.2. A landowner may not reconvene the discontinued use without Board approval.
 - (5) A conversion or change of use involving a non-conforming use and/or Nonconforming structure is also subject to review under Section 3.9.

Section 3.5 Equal Treatment of Housing

- ~~(A) — In accordance with the Act [§4412(1)]:~~
- (A) No provision of these regulations shall have the effect of excluding mobile homes, modular housing or other forms of prefabricated housing from the Town of Hardwick except under the same terms and conditions as conventional housing is excluded. A mobile home shall be considered single family dwelling, and must meet the zoning requirements for such dwelling, except when located in an approved mobile home park (see Section 4.11) or sales establishment, or allowed as a temporary structure (see Section 4.16).
 - (B) No provision of these regulations shall be construed to prevent the establishment of a mobile home park pursuant to state statute [10 V.S.A., Chapter 153] and local standards within designated zoning districts (see Article 2).
 - (C) No provision of these regulations shall have the effect of excluding for review, as a conditional use, one dwelling unit constructed within or attached to a primary single family residence located in a district in which single family residences are a permitted or conditional use, if the accessory unit meets statutory requirements [§4412(1)]. Accessory dwellings are provided for under these regulations in accordance with the requirements of the Act (see Section 4.2).

Section 3.6 Existing Small Lots

- (A) ~~In accordance with the Act [§4412(2)], a~~Any lot in individual and non-affiliated ownership from surrounding properties legally in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, if such lot is at least one-eighth (c) of an acre in area with a minimum width or depth of forty (40) feet. Development of the existing lot shall be

subject to all other applicable requirements.

- (B) Existing small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of these regulations. However, such lots shall not be deemed merged, and may be separately conveyed, if in accordance with the Act all of the following requirements are met:
- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
 - (2) each lot had been developed with a water supply and wastewater disposal system; and
 - (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
 - (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [§4412(2)].

Section 3.7 Height Requirements

- (A) The maximum height of structures in all districts shall not exceed the district maximum, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of these bylaws:
- (1) agricultural structures in accordance with the Act [§4413(D)];
 - (2) steeples, spires, belfries, bell and clock towers;
 - (3) accessory structures associated with residential use which are less than fifty (50) feet in height above the lowest grade at ground level at the base of the structure, including antenna structures, wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures.
- | (B) The ~~Board of Adjustment~~Development Review Board may permit structures in excess of the district standard subject to conditional use review under Section 5.2, upon finding that:
- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
 - (2) that portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance;
 - (3) the structure is not to be used for advertising purposes;
 - (4) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and,
 - (5) the proposed building height and scale are consistent with the character of the immediate surroundings.
- (C) Notwithstanding these requirements, or the district maximum height standards, telecommunications facilities shall meet the standards set forth in Section 4.15, including those standards which relate to maximum height.

Section 3.8 Lot & Yard Requirements

- (A) Only a single principal use or structure may be located on a single lot, unless permitted within the specific district as:
- (1) an accessory use to a principal use (e.g., a home occupation, home child care);
 - (2) a mixed use (see Section 4.10);
 - (3) agricultural and forestry uses;

- (4) the adaptive reuse of a historic structure in accordance with Section 4.3; or
 - (5) as otherwise approved by the Planning Commission Development Review Board as part of a Planned ~~Residential Unit~~ Development (PRDPUD³) in accordance with Section 5.4.
- (B) Notwithstanding subsection 3.8(A), above, the Zoning Administrator may permit two single family dwellings on a single parcel under Section 7.1 provided:
- (1) the parcel meets all applicable lot size, density and dimensional standards for the district in which the parcel is located;
 - (2) the dwellings are set back from one another a minimum of twice the side yard setback distance for the district in which they are located; and
 - (3) the Zoning Administrator determines that if the parcel were subdivided into two parcels each would meet all requirements for a conforming use and complying structure under these bylaws.
- (C) An accessory structure or use must conform to all lot setback, coverage and other dimensional requirements for the district in which it is located, unless otherwise exempted under Section 7.2.
- (D) No lot shall be so reduced in area that it cannot conform to area, setback, frontage, coverage and other dimensional requirements as prescribed in these regulations, except as approved by the Planning Commission Development Review Board for PRDs-PUDs in accordance with Section 5.4.
- (E) Any interior lot which does not have frontage on a public or private road or public waters shall meet minimum setback requirements equal to the front yard setback distance for the district in which it is located from all adjacent property boundaries.
- (F) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.

Section 3.9 Nonconforming Structures & Nonconforming Uses

- (A) Nonconforming Structures. Any pre-existing structure or part thereof which does not conform to the provisions of these regulations concerning density, setbacks, height, lot size or other dimensional standard, or which does not meet other applicable requirements of these regulations, shall be deemed a Nonconforming structure. ~~In accordance with the Act [§4412(7)], Nonconforming structures legally in existence on the effective date of these regulations including a structure improperly authorized as a result of error by the administrative officer~~ may be allowed to continue indefinitely, but shall be subject to the following provisions. A Nonconforming structure:
- (1) may undergo normal repair and maintenance provided that such action does not increase the degree of nonconformity (see definition of degree of nonconformity in Article ~~108~~.2);
 - (2) may be restored or reconstructed after damage from any cause, in accordance with Section 3.2, provided the structure is located outside of the Flood Hazard Overlay District, and provided that the reconstruction does not increase the degree of nonconformity which existed prior to the damage;
 - (3) may be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of nonconformity;
 - (4) may, subject to conditional use review under Section 5.2, undergo alteration or expansion which would increase the degree of nonconformity solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards).

³ These are really called Planned UNIT Developments, even if they only contain residential uses.

- (B) Nonconforming Uses. Any use of land or a structure which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. ~~In accordance with the Act [§4412(4)], nonconforming uses which legally exist on the effective date of these regulations including a use improperly authorized as a result of error by the administrative officer~~ may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:
- (1) shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from any cause, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within one year of such damage;
 - (2) shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of 12 months, regardless of the intent to re-establish such prior use;
 - (3) shall not be changed to another non-conforming use without the approval of the ~~Board of Adjustment~~Development Review Board in accordance with Section 5.2, and then only to a use which, in the opinion of the Board, is of the same or a more restricted nature;
 - (4) shall not be moved, enlarged, or increased by any means whatsoever, except with the approval of the ~~Board of Adjustment~~Development Review Board subject to conditional use review under Section 5.2. In no case shall a nonconforming use be moved to a different lot within the same district in which it is located.

Section 3.10 Parking & Loading Requirements

- (A) Off-street parking spaces shall be provided in accordance with this section when any use is established or enlarged unless otherwise approved by the ~~Board of Adjustment~~Development Review Board or waived under subsection 5.2.
- (1) In the CB District, off-street parking will be required only for employees, on the basis of one space per two (2) employees per shift, and for dwelling or lodging units as provided for in Table 3.1, or as otherwise allowed by the ~~Board of Adjustment~~Development Review Board in accordance with a parking plan submitted by the applicant and approved in accordance with Section 5.2. In all other districts, off-street parking shall be required to accommodate business-owned vehicles and the vehicles of all owners, occupants, employees, customers or other persons expected to be on the premises in accordance with Table 3.1.
 - (2) All required parking spaces shall have a minimum width of nine (9) feet, and a minimum length of eighteen (18) feet, excluding access and maneuvering room.
 - (3) In addition to the requirements listed in Table 3.1, meeting standards to address the needs of people with disabilities (e.g., Americans with Disabilities Act) may also be required by state or federal agencies.
 - (4) Non-residential parking areas shall be located to the side or rear of buildings unless otherwise approved under site plan or conditional use review and shall be screened from adjoining residential properties.

Table 3.1 Minimum Off-Street Parking Requirements	
Use	Parking Spaces
Dwelling Unit/ Single or Two-Family	2 per unit
Dwelling Unit/ Accessory	1 per unit
Dwelling Unit/ Multi-Family	1.5 per unit
Home Occupation/Home-Based Business	2 per unit, and 1 per additional employee
Bed & Breakfast	2 per unit, and 1 per guest room
Lodging Facility (Inn, Motel, Boarding House)	1 per lodging unit, and 1 per employee on largest shift
Office/Personal Service	1 per 300 sq. ft. of gross floor area
Retail	1 per 300 sq. ft. of gross floor area
Restaurant/Bar	1 per 3 seats, and one per employee on largest shift
Public Assembly (Church, Theater, etc.)	1 per 4 seats
Warehouse/Manufacturing/Industry	1 per 2 employees on the largest shift
Other	As determined under site plan or conditional use review

- (B) Loading and Service Areas. In all zoning districts other than the Central Business District, off-street loading space shall be provided for commercial, industrial or institutional uses which will receive shipments in vehicles too large for a standard parking space. Space provided shall be specifically for off-street loading and shall be large enough to fully accommodate the maximum number of such vehicles expected to be on the premises at any one time. Service areas also may be required for development subject to site plan or conditional use review to accommodate emergency vehicles, waste collection and disposal areas, transit service, or other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner that parked vehicles will not block or obstruct access or sight visibility at intersections.
- (C) Waivers. On-site parking, loading, and/or service area requirements may be reduced or waived by the ~~Planning Commission~~Development Review Board under site plan review⁴ based upon a determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is unnecessary:
- (1) suitably landscaped vacant land is set aside and maintained as open space for future conversion to parking, loading or services area in the event that the amount of space initially permitted is deemed inadequate to meet demonstrated need; or
 - (2) shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; or

⁴ This is the first time Site Plan Review is mentioned. However, it's not detailed in Article 5.

- (3) adequate off-site public parking exists within reasonable walking distance of the establishment;
- (4) sufficient off-site parking has been procured (e.g., through lease agreements) in a private or municipal parking lot; or
- (5) the proposal is specifically for the development of elderly housing.

Section 3.11 Performance Standards

- (A) ~~In accordance with the Act [§4414(5)],~~ The following performance standards must be met and maintained for all uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No use, under normal conditions, shall cause, create or result in:
 - (1) **regularly occurring noise** in excess of 65 decibels, or 70 decibels within the Industrial District, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
 - (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
 - (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
 - (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
 - (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
 - (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
 - (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
 - (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;
- (C) Agricultural operations shall at minimum observe ~~Accepted~~ Required Agricultural Practices (~~AAPs~~ RAPs) as defined and administered by the Vermont Department of Agriculture (see Section ~~108~~ 108.2).
- (D) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section ~~108~~ 108.2). Such AMPs include *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*.

Section 3.12 Protection of Water Resources

- (A) Surface Waters. To prevent soil erosion and sedimentation of surface waters, maintain water quality and protect wildlife habitat, the following standards shall apply to all streams and rivers:
- (1) All septic systems shall meet all applicable state standards and regulations;
 - (2) All structures shall be setback a minimum of 75 feet from all streams, rivers and public lakes, although the ~~Board of Adjustment~~Development Review Board may, in accordance with conditional use review under Section 5.2, approve the placement of a structure within the 75 feet setback providing it meets the following standards:
 - a) the structure is located within the Central Business District or the Village Neighborhood District; and
 - b) the building placement will better reflect the historic settlement pattern and character of the surrounding area; and
 - c) reasonable provision is made for the protection of water quality such as, but not limited to, the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer areas along streambanks, and/or stormwater management provisions to collect and disperse stormwater away from the stream or river.
 - (3) An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all streams, rivers and lakes. The 25 feet buffer strip shall be measured from the top of the streambank. No development, excavation, filling, clearing or grading shall occur within the buffer strip, with the exception of clearing and associated site development necessary to accommodate the following:
 - a) road, driveway and utility crossings;
 - b) streambank stabilization and restoration projects, in accordance with applicable state and federal regulations;
 - c) bicycle and pedestrian paths and trails;
 - d) recreation facilities, including structures, and improved lake or pond accesses;
 - e) landscaping associated with a residential use;
 - f) agriculture in accordance with ~~A~~acceptable Required Agricultural Practices (~~AAPs~~RAPs) as defined by the Commissioner of Agriculture, Food and Markets, and forestry in accordance with *Acceptable Management Practices (AMPs) For Maintaining Water Quality on Logging Jobs in Vermont*, published by the Vermont Department of Forests, Parks and Recreation; or
 - g) any use exempted in subsection (2), above.
 - (4) The expansion or enlargement of any structure in existence prior to the effective date these bylaws and not in compliance with this Section is permitted with approval of the ~~Board of Adjustment~~Development Review Board pursuant to Section 5.2 regarding Nonconforming structures.
 - (5) No alteration of the natural course of any stream shall be allowed unless a stream alteration permit has been issued by the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41. Such alterations within the Flood Hazard Area Overlay District are subject to state agency and municipal referral requirements under Section 7.1.
- (B) Source Protection Areas. In order to protect community water supplies, the following potential sources of contamination are specifically prohibited within designated Source Protection Areas, unless it is

demonstrated to the satisfaction of the ~~Board of Adjustment~~Development Review Board under conditional use review (Section 5.2) that no potential for contamination of a water supply exists:

- a) gasoline and motor vehicle service and repair facilities;
- b) machine and body shops;
- c) car washes;
- d) the outdoor storage of road salt and other de-icing chemicals;
- e) public or community wastewater treatment facilities;
- f) fuel storage except for agricultural or residential use;
- g) underground storage tanks;
- h) solid waste disposal facilities and sanitary landfills;
- i) dry cleaning, furniture stripping, metal plating, and photographic processing activities;
- j) junk and salvage yards;
- k) extraction and quarrying activities;
- l) cemeteries;
- m) lawn and garden stores;
- n) power plants and substations; and/or
- o) any other use which involves the generation, use, storage, treatment, transportation or disposal of potential contaminants greater than normal household use.

- (C) An application for development within delineated Source Protection Areas which is subject to conditional use review shall also be forwarded for review by the local fire or water district having jurisdiction prior to the issuance of a permit. Development within a source protection area shall be managed in accordance with the adopted source protection plan for that area. Conditions may be attached as appropriate, in consultation with the local district and/or state.

Section 3.13 Sign Regulations

- (A) Applicability. A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign, except for signs which are specifically exempted from these provisions, or specifically prohibited as listed under Table 3.2, or the replacement of any sign face communicating a change in ownership, management or brand associated with any sign that meets all applicable standards of this section [See subsection (12)].
- (B) General Standards. All signs, other than those specified in subsection (A) of Table 3.2, shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements pertaining to all signs:
- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise use in those districts where such uses are permitted.
 - (2) There shall be only one free-standing or hanging wall mounted sign per principal business or service per lot front except as allowed for gasoline pricing signs in accordance with Section 4.12.
 - (3) No sign located within the Central Business District and Village Neighborhood District shall exceed more than 16 square feet per face. The ~~Board of Adjustment~~Development Review Board may, however, approve a sign of up to 25 square feet per face as a conditional use in accordance with Section 5.2.

- (4) No sign located within the Highway Mixed Use District or the Industrial District shall exceed 32 square feet per face.
- (5) No sign in the Compact Residential District, Rural Residential District or the Forest Reserve District shall exceed 9 square feet per face.
- (6) No sign, including mounted or freestanding supporting structures, shall exceed 16 feet in height. The ~~Board of Adjustment~~ Development Review Board may, however, approve a sign of up to 20 feet in height as a conditional use in accordance with Section 5.2.
- (7) No sign shall be closer than 10 feet to the nearest part of the traveled portion of any road, except within the Central Business District.
- (8) No sign shall be placed at any road intersection in a manner to obstruct the line of sight from such intersection.

Table 3.2

Exempted & Prohibited Signs

(A) **Exempt Signs.** No zoning permit shall be required for the following types of signs, which are exempt from these regulations:

- (1) Signs erected by the state or town on public roads.
- (2) Non-advertising signs placed for directional, safety or public service purposes which do not exceed 4 square feet in area.
- (3) Signs offering real estate for sale, not to exceed 4 square feet and placed in accordance with subsection (B)(8).
- (4) One residential sign per dwelling unit identifying the occupant, not to exceed 2 square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.
- (5) Signs relating to trespassing and hunting, each not to exceed 2 square feet in area.
- (6) Temporary auction, yard, or garage sale signs not to exceed 2 in number or 6 square feet in total area, which shall be removed immediately following the event or sale.
- (7) Temporary election signs to be posted and removed in accordance with state law.
- (8) Temporary signs or banners advertising public or community events, to be displayed in designated locations on town property with the prior permission of the Selectboard, which shall be removed immediately following the event.
- (9) Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment, 16 square feet in total area, or 6 feet in height above ground level.
- (10) Unlit signs associated with farm operations, not to exceed one per establishment or 16 square feet in area.
- (11) Unlit wall-mounted or freestanding signs advertising a home occupation, home industry or home child care facility, not to exceed one per residential dwelling or 4 square feet in area.
- (12) On-premise historic or landmark signs, not to exceed one in number or 6 square feet in area.
- (13) Wall murals intended solely for artistic, non-advertising purposes.
- (14) Up to one flag displaying messages such as "open" and/or "sale."
- (15) Window signs and wall graphics affixed directly to the face of a wall or window within the Central Business (CB) and Highway Mixed-use (HM) Districts.
- (16) One temporary construction sign, not to exceed 16 square feet in total area or 10 feet in height, providing such sign is promptly removed immediately following completion of construction.

(B) **Prohibited Signs.** The following signs are prohibited in all districts:

- (1) Signs which impair highway safety.
- (2) Signs which are flashing, oscillating, revolving or made of reflective material, unless necessary for public safety or welfare.
- (3) Permanent signs which project over public rights-of-way or property lines, except in instances in which a building abuts a public sidewalk.
- (4) Signs located on motor vehicles which are used primarily as a support or foundation.
- (5) Off-premises signs, except for those which conform to state laws.

(9) Signs shall be illuminated so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for indirect lighting, provided that the light fixture is mounted on the top or side of the sign, is directed onto the sign surface, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.

(10) Signs shall not be constructed to include blinking lights, moving parts, or any device capable of emitting noise unless specifically approved by the ~~Board of Adjustment~~Development Review Board as a conditional use in accordance with section 5.2.

(11) All signs shall be maintained in a secure and safe condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 7.5 may be issued with a request that any defect in the sign immediately is corrected.

(132) No nonconforming sign may be replaced, expanded, or the message altered to advertise a different owner, management or brand, unless such altered sign is brought into conformance with these standards.

(C) **Measurement.** The area of measurement of any sign shall be the total area of the sign face to the outer edge, including any supporting frames or panels. Signs consisting of freestanding characters shall include any intervening spaces (the entire message area) in the calculation of total sign area. The height of the sign shall be measured to the highest point of the supporting structure.

Section 3.14 Steep Slopes & Erosion Control

(A) Development shall not take place on slope gradients in excess of 25% with the exception of limited site improvements necessary to facilitate development on contiguous land less than 25% gradient.

(B) ~~Aceepeted Required~~ agricultural practices and forestry, as defined in Article 7, are exempted from this Section ~~in accordance with Section 6.2.~~⁵

Section 3.15 Storage of Hazardous Materials

(A) The storage of any highly flammable or hazardous liquid or gas in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines. All storage tanks shall comply with all applicable state and federal regulations. All storage tanks in the Flood Hazard Overlay District shall comply with standards of Section 5.3.

(B) All tanks (containing flammable liquids) located above-ground and having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than 1.5 times the capacity of the

⁵ There is no Section 6.2. Not sure why this reference is here.

tanks surrounded.

ARTICLE 7. ADMINISTRATION & ENFORCEMENT

Section 7.1 Permit & Application Requirements

- (A) Zoning Permit Requirements. No land development may commence, and no structure may be erected, substantially improved, moved, or changed in use, unless a zoning permit has been issued by the Zoning Administrator ~~as provided for in the Act [§4449]~~, or the development is specifically exempted from the provisions of these bylaws under Section 7.2. Other municipal permits or approvals, such as curb-cut or sewer connection approval, also may be required under separate ordinances.
- (B) Application Requirements. Applications for zoning permits shall be submitted to the Zoning Administrator on forms provided by the Town, along with any application fees as established by the Selectboard. In addition, the following will be required as applicable:
- (1) Permitted Uses. Applications for permitted uses shall include a statement of the existing and intended use of land and structures, and be accompanied by a sketch plan, drawn to scale, that includes the following:
 - a. the dimensions of the lot, including existing and proposed property boundaries;
 - b. the location, footprint, and height of existing and proposed structures and additions;
 - c. the location of existing and proposed easements, rights-of-way and utilities;
 - d. setbacks from property boundaries, rights-of-way, surface waters, and wetlands;
 - e. a surveyor's plot plan, if available; and
 - f. additional information as requested to determine conformance with the provisions of these bylaws.
 - (2) Conditional Uses. Uses that require conditional use review must include a development plan prepared and submitted in accordance with Section 5.2.
 - (3) Flood Hazard Area Review. Uses within the flood hazard overlay district that require flood hazard review must include a flood hazard development plan prepared and submitted in accordance with Section 5.3.
- (C) Issuance of Zoning Permits. The Zoning Administrator shall issue zoning permits in accordance with the following:
- (1) No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires approval of the ~~Board of Adjustment and/or Planning Commission~~ Development Review Board, until such approval has been obtained.
 - (2) Within 30 days of receipt of a complete application, including all application materials, fees and approvals, the Zoning Administrator shall either issue, deny or refer a permit in writing ~~pursuant to the Act [§§4449, 4465] to the Development Review Board~~. An application for a zoning permit will not be considered complete until all ~~necessary~~ approvals (~~e.g., Board of Adjustment, Planning Commission~~) ~~as~~ required by these bylaws have been obtained. Denials shall include a statement describing the reasons for denial and the time in which appeals may be made under Section 7.3. If the Zoning Administrator fails to act within the 30 day period, a permit shall be deemed issued on the 31st day.
 - (3) Within 3 days of issuance, the Zoning Administrator shall deliver a copy of the permit to the Listers, and post a copy at the Town Office for a period of 15 days from issuance.

- (4) A notice of permit, on a form prescribed by the municipality, must be posted by the applicant within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.
- (D) Effective Dates. No zoning permit shall take effect until the time for appeal under Section 7.3 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. Permits and associated conditions will run with the land and be binding upon the landowner's future heirs and assigns. A permit will, however, expire and become null and void within 2 years from the date of issuance if the permitted development has not commenced. Prior to the expiration of the permit, the Zoning Administrator may issue an extension for one additional year.
- (E) Certificate of Compliance.
- (1) Special Flood Hazard Area. It shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a Certificate of Compliance is issued by the Zoning Administrator stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A Certificate of Compliance shall not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.⁶
- (2) Other Development. After the effective date of these regulations, the Planning Commission and/or Board of Adjustment Development Review Board may require, as a condition of subdivision or conditional use approval for development outside of the Special Flood Hazard Area, that a Certificate of Compliance be obtained to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions.
- (13) The application for a certificate-Certificate of compliance-Compliance shall be submitted to the Zoning Administrator with as-built plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, parking areas, signs, landscaping and other improvements as constructed.
- (24) Within 14 days of receipt of the application for a certificate of compliance, the Zoning Administrator will inspect the project-premises to ensure that all work has been completed in conformance with the conditions of approval. If the Zoning Administrator fails to either grant or deny the certificate of compliance within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.
- (5) If a Certificate of Compliance cannot be issued, notice will be sent to the owner. In the case of development within the Special Flood Hazard Area, notice will be copied to the lender.

⁶ A Certificate of Occupancy is not required by 44 CFR but is strongly recommended by the VT DEC as a low cost method to support the enforcement of flood hazard regulations. Since your bylaw already allows for a Certificate of Compliance, it seemed reasonable to require it in the Special Flood Hazard Area.

Section 7.2 Exemptions

- (A) No zoning permit shall be required for the following:
- (1) Any building for which construction lawfully began prior to the effective of these regulations, provided that construction is completed within two of the effective date.
 - (2) Normal maintenance, repair, remodeling or interior alteration of an existing structure outside of the Special Flood Hazard Area that does result in any change to the footprint or height dimensions, or any expansion the total area, of the structure, or a change in use.
 - (3) Residential entry stairs (excluding or porch areas), handicap ramps, walkways, and fences or walls less 8 feet in height which do not extend or obstruct public rights-of-way, ~~or~~ interfere with corner visibility or sight distances for vehicular traffic, or fail meet the Flood Hazard Development Standards of 5.3(C) of these Bylaws.
 - (4) Accessory structures, such as a shed, house, doghouse, child’s play house, similar structure with a floor area of more than 100 square feet (each) and a height of not more than ten (10) feet which is located at least 10 feet from property lines, and outside the Special Flood Hazard Area. A zoning permit is required for all other accessory structures.
 - (5) Prefabricated, temporary carports and storage covers assembled out of metal structural supports and fabric, provided they are located outside of Special Flood Hazard Area, and such covers are not affixed to a permanent foundation, do not exceed 240 square of covered space and meet all setback standards for the district in which they located.

Interested Person. In accordance with the Act [§4465 (b)], the definition of an interested person includes the following:

- 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.
- The Town of Hardwick or any municipality that adjoins it.
- a person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, 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 conformed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
- any ten persons who may be any combination of voters or real property owners within a municipality listed above who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- any department and administrative subdivision of this state owning property or any interest in property within a municipality listed above, and the agency of commerce and community development of this state.

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- (6) The ordinary use of a small room of a dwelling for personal office use and/or paperwork for business activity carried on elsewhere, in accordance with Section 4.8.
- (7) Noncommercial outdoor recreation that does not involve the development or use of structures or substantial site improvement (e.g., construction of parking area at a trail head).
- (8) Minor grading and excavation associated with road and driveway maintenance (including culvert replacement and re-surfacing) and yard improvements associated with accessory uses to existing principle uses (contouring yards, establishing garden and landscape areas), providing they do not alter the flood carrying capacity of any watercourse within the Special Flood Hazard Area.
- (9) Garage sales, yard sales and auctions not exceeding 3 consecutive days, nor more than 12 days per calendar year, which do not cause unsafe traffic conditions or parking problems.
- (10) Fuel storage as an accessory structure to an allowed use, provided such storage is outside the Special Flood Hazard Area and meets the requirements of Section 3.15.
- (11) Accepted management practices (AMPs) for silviculture as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act [§4413(d)].

(12) The removal of a building or other structure in whole or in part from the Special Flood Hazard Area.

- (B) In accordance with the Act [§4413(d)], ~~accepted-required~~ agricultural ~~and best management~~ practices (~~AAPs, BMPsRAPs~~), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets, also are also exempted from the permit requirements under Section 7.1. However, written notification, including a sketch plan of the structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the ~~AAPsRAPs~~.

Section 7.3 Appeals

- (A) Decisions of the Zoning Administrator. In accordance with the Act [§§4465, 4472], the applicant or any interested person may appeal a decision or act of the Zoning Administrator by filing a notice of appeal with the Secretary of the ~~Board of Adjustment~~Development Review Board, or the Town Clerk if no Secretary has been elected, within 15 days of the date of such decision or act.
 - (1) ~~As required by the Act [§4468], t~~The Board of Adjustment Development Review Board shall hold a public hearing on a notice of appeal within 60 days of the filing of the appeal. The Board shall give public notice of the hearing as required under Section 7.6, and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
 - (2) The ~~Board of Adjustment~~Development Review Board shall render a decision on appeal, to include written findings of fact, within 45 days after close of hearing ~~completion~~ as required by the Act [§4464]. The Board may reject an appeal without hearing, and render a decision 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. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Zoning Administrator and Town Clerk in accordance with the Act.
- (B) Decisions of the ~~Board of Adjustment or Planning Commission~~Development Review Board. The applicant or any interested person who has participated in the proceeding may appeal a decision of the ~~Board of Adjustment or Planning Commission~~Development Review Board within 30 days of such decision to the Vermont Environmental Court, in accordance with the Act [§§4471, 4472]. Notice of appeal shall be sent to every interested person appearing and having been heard at the hearing before the ~~Board or Commission~~.

- (C) Notice of Appeal. ~~Pursuant to the Act [§4466], a~~A notice of appeal shall be in writing and include:
- (1) the name and address of the appellant;
 - (2) a brief description of the property with respect to which the appeal is taken;
 - (3) a reference to applicable bylaw provisions;
 - (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these bylaws;
 - (5) the alleged grounds why such relief is believed proper under the circumstances; and
 - (6) any request for a stay of enforcement which may be granted or denied by the Vermont Environmental Court in accordance with the Act [§4449(a)(3)].

Section 7.4 Variances

- (A) The ~~Board of Adjustment~~Development Review Board shall hear and decide upon requests for variances pursuant to the Act [§4469] and appeal procedures under Section 7.3. The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:
- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
 - (3) that 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, nor be detrimental to the public welfare; and
 - (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- (B) ~~On an appeal for a variance from the provisions of these bylaws that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the facts listed in the Act [§4469] are found in the affirmative and specified in its decision.~~
- ~~(D)~~B) In granting a variance, the Board of AdjustmentDevelopment Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these bylaws and the municipal plan currently in effect. In no case shall the Board of Adjustment grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.
- (C) Variances within the Flood Hazard Area Overlay District shall be granted by the ~~Board of Adjustment~~Development Review Board only:
- (1) in accordance with the Act [§4469, §4424] and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations;
 - (2) upon a determination that during the base flood discharge the variance will not result in increased

flood levels; and

- (3) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (4) Any variance issued in the Special Flood Hazard Area will inform the applicant in writing over the signature of the Zoning Administrator that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.⁷

~~(D) In granting a variance, the Board of Adjustment may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these bylaws and the municipal plan currently in effect. In no case shall the Board of Adjustment grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.~~

Section 7.5 Violations & Enforcement

- (A) Violations. The commencement or continuation of any land development or use which is not in conformance with the provisions of these bylaws shall constitute a violation. The Zoning Administrator shall take appropriate action in the name of the Town to enforce the provisions of these bylaws in accordance with the Act [§§4451, 4452]. All fines imposed and collected for violations of these bylaws shall be paid over to the Town.
- (B) Notice of Violation. ~~As set forth in the Act [§4451], n~~No action may be brought under this Section unless the alleged offender has had at least seven days' notice by certified mail that a violation exists. The warning notice shall state that a violation exists, the nature of that violation, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for the violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the next succeeding 12 months.
- (C) Limitations on Enforcement. The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals. Enforcement proceedings must be instituted within 15 years from the date the violation first occurred. The burden of proving the date that the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- (D) Violations in the Flood Hazard Overlay. Notwithstanding 7.5(C) above, a violation in the Flood Hazard Overlay shall remain a violation until such violation is cured.
 - (1) A copy of the notice of violation will be mailed to the State National Flood Insurance Program Coordinator.
 - (2) If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
 - (3) Violations of Required Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

⁷ Required for NFIP, 44 CFR Section 60.6 (a) (5)

Section 7.6 Municipal Administrative Requirements

- (A) Appointments. The following appointments shall be made in association with the administration and enforcement of these bylaws as provided for in the Act:
- (1) Zoning Administrator. The ~~Zoning Administrator shall be nominated by the~~ Planning Commission, ~~with the approval of and appointed by the~~ Selectboard, ~~shall appoint a Zoning Administrator~~ for a term of 3 years in accordance with the Act [§4448]. In the absence of the Zoning Administrator, ~~the Planning Commission may nominate and the Selectboard appoint~~ an Acting Zoning Administrator ~~may be appointed by the Planning Commission in consultation with the Selectboard~~. The Zoning Administrator shall administer these bylaws literally, and shall not have the power to permit any development that is not in conformance with it.
 - (2) ~~Board of Adjustment~~Development Review Board. ~~The Board of Adjustment existing on the date of adoption of these bylaws shall continue as the Board of Adjustment and the terms of its respective members shall be the same as they were on the effective date.~~ Members of the Development Review Board, which may consist of the members of the Planning Commission, shall be appointed by the Selectboard [§4460]. One or more alternates also may be appointed by the Selectboard to serve for members in the event of an absence or conflict of interest. The Board shall adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A., §310-314]; and shall have quasijudicial powers and duties as set forth in the Act to administer the provisions of these bylaws, including but not limited to the power to hear and decide:
 - requests for access approval under Section 3.3;
 - requests for subdivision approval under Section 6.1 and
 - applications for conditional use approval under Section 5.2 and Section 5.3;
 - applications for planned residential and planned unit developments under Section 5.4.
 - ~~applications for conditional use approval under Section 5.2;~~
 - requests for subdivision approval under Section 6.1 and
 - appeals from any decision, act or failure to act by the Zoning Administrator under Section 7.3; and
 - variance requests under Section 7.4.
 - (3) Planning Commission. ~~The Planning Commission existing on the date of adoption of these bylaws shall continue as the Planning Commission and the terms of its respective members shall be the same as they were on the date of adoption.~~ The Planning Commission shall be appointed by the Selectboard ~~unless otherwise elected by the voters of the Town in accordance with the Act [§§4321, 4323].~~ The Commission shall adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4323] and Vermont's Open Meeting Law [1 V.S.A. 310-314]; and shall have legislative powers and duties as set forth in the Act [§4325], including but not limited to the power to hear and decide requests and petitions for bylaw amendments.
 - ~~requests for access approval under Section 3.3;~~
 - ~~requests for subdivision approval under Section 6.1 and~~
 - ~~applications for planned residential and planned unit developments under Section 5.4.~~
- (B) Fee Schedule. The Selectboard shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering the town's administrative costs.

(C) Hearing Notice Requirements. ~~As required by the Act [§4464], a~~ny public notice required for public hearing under these bylaws shall be given by the publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town, and the posting of such notice in three or more public places within the Town including posting by the applicant of a notice of hearing within view from the public right-of-way most nearly adjacent to the property for which an application is made, not less than 15 days prior to the hearing date. Failure by the applicant to comply with this requirement may result in the denial of the application. Written notification of the hearing shall be sent by mail to the applicant and to all adjoining property owners. The applicant will be required to provide a list of adjoining property owners to the Administrator for notification purposes.

(D) Permit Recording Requirements. As required by the Act [§4443(c)], within 30 days after a municipal land use permit, including but not limited to a zoning permit and associated approvals, has become final, or within 30 days of the issuance of a notice of violation, the Zoning Administrator shall deliver the notice of violation, or memorandum or notice of recording, to the Town Clerk for recording as provided in 24 V.S.A. subsections 1154(a) or (b). The applicant may⁸ be charged the cost of recording fees.

Municipal Land Use Permit: a zoning, subdivision, site plan or building permit or approval, any of which relate to land development as defined in statute, which has received final approval from the applicable board, commission, or officer of the municipality [24 V.S.A. §4303(11)].

(E) Flood Hazard Overlay ~~District~~ Recording Requirements. For development within the Flood Hazard Overlay ~~District~~, the Zoning Administrator shall also maintain a record of:⁹

- (1) All permits issued in areas covered by this bylaw;
- (2) Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area;
- (3) All flood proofing and other certifications required under this regulation; and,
- (4) All decisions of the Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

- ~~(1)—all permits issued for development in areas of special flood hazard;~~
- ~~(2)—the elevation, in relation to mean sea level, of the lowest floor, including basement, or all new or substantially improved buildings;~~
- ~~(3)—the elevation, in relation to mean sea level, to which buildings have been floodproofed;~~
- ~~(4)—all elevation and floodproofing certifications required under this regulation; and~~
- ~~(5)—all variance actions, including the justification for their issuance.~~

⁸ Are there instances when applicants are NOT required to pay the filing fees?

⁹ The NFIP requires records to be kept of permits including variances, elevations of new or substantially improved structures, flood proofing, and related certifications. CFR 60.3 (b) (5)