
ARTICLE I. AUTHORITY & PURPOSE

Section 1.01 Enactment

Zoning regulations for the Town of Waitsfield are hereby established in accordance with the Vermont Planning & Development Act [24 V.S.A. Chapter 117], hereinafter referred to as “the Act.” The following text and maps which constitute these regulations shall be known and cited as the “**Town of Waitsfield Zoning Bylaw.**”

Section 1.02 Purpose

- A. The purpose of this zoning bylaw is to protect public health, safety and welfare; to further the purpose and goals of the Act [§4302]; and to implement the current *Waitsfield Town Plan*.
- B. Such shall also be the purpose of any regulations, restrictions, or boundaries contained in this bylaw, or adopted and established pursuant to it.

Section 1.03 Application & Interpretation

- A. The application of this bylaw is subject to all provisions of the Act as most recently amended.
- B. In accordance with the Act [§4446], no land development shall commence within the jurisdiction of the Town of Waitsfield except in conformance with the requirements of this bylaw. Any land development which is not specifically authorized under this bylaw, nor is otherwise exempted from these regulations under Section 6.02, is prohibited.

Land Development. 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)].
- C. All uses or structures lawfully in existence as of the effective date of this bylaw are allowed to continue indefinitely. Changes, alterations or expansions to pre-existing structures or uses shall be subject to all applicable requirements of this bylaw, including provisions applying to nonconforming uses and/or nonconforming structures under Section 3.08.
- D. The subdivision of land, including the division of a parcel into two or more parcels, does not require a zoning permit, but does require subdivision approval in accordance with the Waitsfield Subdivision Regulations. Where applicable, subdivision approval shall be obtained prior to the issuance of a zoning permit for subsequent land development. The subdivision of land also may be subject to planned residential or planned unit development (PRD/ PUD) review by the Development Review Board under Section 5.04 of this bylaw.
- E. In its interpretation, the provisions of this bylaw shall be the minimum required. It is not the intent of this bylaw to repeal, annul, or in any way impair other regulations in effect, or any permits previously issued; however, where this bylaw imposes more stringent restrictions upon land development, the provisions of this bylaw shall apply.

Section 1.04 Effective Date

In accordance with the Act [§4442], this bylaw shall take effect on the date of its adoption by the legal voters of the Town of Waitsfield at a duly warned special or regular meeting of the town or, in the event an amendment is adopted by a majority of the Waitsfield Selectboard, it shall take effect twenty-one (21) days from the date of adoption. The zoning ordinance and associated maps in effect prior to the adoption of this bylaw are hereby repealed as of the effective date of this bylaw.

Section 1.05 Amendments

- A. The provisions of this bylaw and the boundaries of zoning districts established herein may from time to time be added to, repealed, altered, changed, or otherwise amended by the legal voters of the town, in accordance with the Act [§§ 4441, 4442].
- B. Proposed amendments to this bylaw shall be submitted to the Waitsfield Planning Commission for consideration in accordance with amendment procedures established under the Act [§4441]. Such amendments, if supported by a petition signed by not less than 5% of the voters, shall be reviewed by the Planning Commission only to correct technical deficiencies. When considering any amendment to this bylaw, the Planning Commission shall prepare a written report on the proposal in accordance with the Act [§4441(c)], for submission to the Waitsfield Selectboard and voters.

Section 1.06 Severability

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

ARTICLE II. ZONING DISTRICTS

Section 2.01 Establishment of Zoning Districts & Maps

- A. For the purposes of this bylaw, the Town of Waitsfield is divided into the following zoning districts as described in the accompanying tables (Tables 2.01 - 2.10) and the official zoning map:

Table 2.01.	Village Business District	(VB)
Table 2.02.	Village Residential District	(VR)
Table 2.03.	Irasville Village District	(IV)
Table 2.04.	Commercial Lodging District	(CL)
Table 2.05.	Limited Business District	(LB)
Table 2.06.	Industrial District	(IN)
Table 2.07.	Agricultural-Residential District	(AR)
Table 2.08.	Forest Reserve District	(FR)
Table 2.09.	Historic Waitsfield Village Overlay District	(HWVO)
Table 2.10.	Flood Hazard Area Overly District	(FHO)

- B. The location and boundaries of each zoning district are established as shown on the official “Town of Waitsfield Zoning Map” and National Flood Insurance Program maps of the Town of Waitsfield, which are hereby adopted by reference and declared to be part of this bylaw. The official zoning map may only be altered by adoption or amendment in accordance with the Act [§§4441, 4442] and this bylaw (Section 1.05).
- C. The official zoning and flood hazard area maps shall be located in the Waitsfield Town Office, and 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 2.02 Zoning District Boundary Interpretation

- A. Narrative descriptions of zoning district boundaries are included in Appendix A of these regulations.
- B. Where uncertainty exists as to the location of district boundaries as shown on the official zoning and flood hazard area maps, 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 lot lines shall be interpreted to follow the delineated property boundary.
 4. 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.
 5. Boundaries indicated as following compass headings shall be interpreted to follow such headings.

-
6. Boundaries indicated as parallel or perpendicular to, or extensions of the above features (1-4), shall be so interpreted on the ground.
 7. Distances not specifically indicated shall be determined by the scale on the official zoning map.
- C. 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 this bylaw, shall not affect the location of the district boundary line except as specified above for streams and rivers.
 - D. 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 this bylaw. 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.
 - E. When the Administrative Officer cannot definitely determine the location of a district boundary, the Development Review Board and/or appropriate state or federal official may be consulted prior to issuing a determination. A determination by the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board under Section 6.4. Where there is a dispute as to where a property is located in relation to a district boundary, the property owner may be required to verify the location of the boundary line by a survey prepared by a registered surveyor.
 - F. Where a district boundary divides a lot in single ownership as of the effective date of this bylaw, or any amendment thereto, the Development Review Board may permit, subject to conditional use review under Section 5.03, the extension of district standards for either portion of the lot up to 50 feet beyond the district line into the remaining portion of the lot.
 - G. Where a lot is divided by a town boundary, the standards of this bylaw shall be applied to that portion of the lot located in the Town of Waitsfield in the same manner as if the entire lot were located in this town.

Section 2.03 Application of District Standards

- A. Tables 2.01-2.10 set forth the stated purpose, allowable uses and specific standards for each zoning district. Additional district standards pertaining to conditional uses may be found under Section 5.03, and to planned residential and planned unit development under Section 5.04.
- B. As of the effective date of this bylaw, all uses and structures, unless specifically exempted under Section 6.02, must comply with all prescribed standards for the district in which they are located, as set forth in Tables 2.01-2.08, unless otherwise specified in these regulations. The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified. Nonconforming uses and nonconforming structures in lawful existence as of the effective date of this bylaw shall be regulated in accordance with Section 3.08.
- C. Overlay district standards, as set forth in Tables 2.09-2.10, shall be applied concurrently with the standards for underlining 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.

-
- D. Prescribed uses for each district are classified as “**permitted uses**” (“use by right”), subject to review by the Administrative Officer in accordance with Section 6.01; or as “**conditional uses**” subject to review by the Development Review Board in accordance with Section 5.03. Both permitted and conditional uses are also subject to applicable general standards set forth in Article III. All uses not specifically allowed under, or exempted from, the provisions of this bylaw are prohibited.

Table 2.01
Village Business District (VB)

A. **Purpose:** The purpose of the Village Business District is to promote a mix of uses in the traditional center of Waitsfield Village while preserving the area’s historic character, architectural resources and ability to function as a livable community, as described in the *Waitsfield Town Plan*. A mix of residential, civic, cultural, and commercial uses are allowed, providing such uses are compatible with existing uses.

B. **Permitted Uses:**

1. Accessory Dwelling no larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a permitted use)
3. Agriculture
4. Home Child Care
5. Home Occupation
6. Single-family Dwelling

C. **Conditional Uses:**

1. Accessory Dwelling larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a conditional use)
3. Adaptive Reuse of Historic Barns
4. Artists Studio/Gallery
5. Bank (drive-through prohibited)
6. Bar/Tavern
7. Bed & Breakfast
8. Cemetery
9. Child Care Facility
10. Community Center
11. Cultural Facility
12. Home Business
13. Hotel/Inn/Lodge (not to exceed 25 beds or rooms, whichever is greater)
14. Indoor Recreation Facility
15. Mixed Use
16. Multi-family Dwellings
17. Office
18. Parking Facility
19. Personal Services
20. Public Facility
21. Place of Worship
22. Private Club
23. Restaurant (drive-through prohibited)
24. Retail
25. School
26. Special Events

D. **Area, Yard, Coverage, Height and other Regulations:**

- | | |
|----------------------------|---|
| Minimum Lot Size: | ¼ acre |
| Maximum Lot Coverage: | 60% |
| Maximum Building Coverage: | 40% (no single building footprint may exceed 4,000 sq.ft.) |
| Maximum Building Height: | 3 stories or maximum of 40 feet |
| Minimum Building Height: | 1 ½ stories above grade (excluding accessory structure not greater than 600 square feet) |
| Minimum Roof Pitch: | A minimum of 6 over 12 is required on all new construction, excluding roofs covering open porches, entry ways and accessory structures less than 500 square feet. |

Table 2.01 (continued)
Village Business District

D. **Area, Yard, Coverage, Height and other Regulations (continued):**

Minimum Setbacks:

Front yard:	35 feet from the road centerline
Side yard:	10 feet
Rear yard:	10 feet for principal structures; 5 feet for accessory structures
River or Stream:	In accordance with section 3.12.
Minimum Road Frontage:	50 feet

E. **Additional District Standards:**

1. **Front Yard Requirement.** The front yard area shall be limited to landscaping, yard area, sidewalks and public spaces.
2. **Conditional Use Standards:** As provided under Section 5.03.

Table 2.02
Village Residential District (VR)

A. **Purpose:** The purpose of the Village Residential District is to maintain and enhance the residential and historic character of Waitsfield Village outside of the commercial core, as described in the *Waitsfield Town Plan*, and to allow for additional residential, public, institutional, and very limited commercial uses in a manner that supports the historic settlement pattern of the Village and maintains the Village's ability to function as a livable community.

B. Permitted Uses:

1. Accessory Dwelling no larger than 800 sq. ft. or 30% of the of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a permitted use)
3. Agriculture
4. Home Occupation
5. Home Child Care
6. Single-family Dwelling

C. **Conditional Uses:** The following uses are permitted through-out the Residential District after conditional use approval by the Development Review Board in accordance with Section 5.03:

1. Accessory Dwelling larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a conditional use)
3. Adaptive Reuse of Historic Barns
4. Bed & Breakfast
5. Child Care Facility
6. Community Center
7. Crisis Shelter
8. Home Business
10. Mixed Use
11. Multi-family Dwellings
12. Place of Worship
13. Public Facility
14. Recreation Facility/Outdoor
15. School
16. Special Events

D. Conditional Uses - Route 100

Corridor: In addition to the conditional uses listed in subsection C., the following uses are only permitted within 200 feet from the edge of the Vermont Route 100 right-of-way, after conditional use approval by the Development Review Board in accordance with Section 5.03:

1. Artist Studio/Gallery
2. Cultural Facility
3. Medical Center
4. Office (in accordance with subsection F. below)
5. Private Club
6. Retail (in accordance with subsection F. below)

Table 2.02 (continued)
Village Residential District (VR)

E. Area, Yard, Coverage, Height and other Standards:

Minimum Lot Size:	½ acre
Maximum Lot Coverage:	50%
Maximum Building Coverage:	25% (no single building footprint may exceed 4,000 square feet)
Maximum Building Height:	3 stories or maximum of 40 feet
Minimum Building Height:	1 ½ stories above grade (excluding accessory structure not greater than 600 square feet)
Minimum Roof Pitch:	A minimum of 6 over 12 is required on all new construction, excluding roofs covering open porches, entry ways and accessory structures less than 500 square feet.
Minimum Setbacks:	
Front yard	45 feet from the road centerline
Side yard:	10 feet
Rear yard:	25 feet for principal structures; 10 feet for accessory structures
River or Stream	In accordance with section 3.12.
Minimum Road Frontage:	50 feet

F. Additional District Standards

- 1. Restrictions on Retail and Offices.** Retail and office uses are only permitted as conditional uses in a structure located entirely within 200 feet of the Vermont Route 100 right-of-way, and the structure must be a mixed-use building within which not less than 50% of the usable floor space is occupied for residential purposes (e.g., contains one or more dwelling unit). Usable floor space shall include all heated interior space of the building, including basement areas, and shall exclude structures that are accessory to a single-family dwelling. The use of accessory structures for retail or office use, such as the conversion of a carriage barn into office or retail space, may be permitted as a conditional use providing not less than 50% of the total usable floor space of all habitable structures on the parcel is occupied for residential purposes. Because the “Oddfellows Hall/Valley Players Theater” has not historically been used for residential purposes/and presently functions as a venue for live performances that is not compatible with residential uses, this provision does not apply to parcel #99062.000.
- 2. Conditional Use Standards:** As provided under Section 5.03.

Table 2.03
Irasville Village District (IV)

A. Purpose. The purpose of the Irasville Village District is to function as the town’s growth center as defined in the Waitsfield Town Plan, to enable coordinated expansion of residential development, shopping facilities, and other commercial uses that minimize traffic impacts, and which concentrate development into a more compact village setting.

B. Permitted Uses:

1. Accessory Dwelling no larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a permitted use)
3. Agriculture
4. Forestry
5. Home Child Care
6. Home Occupation
7. Single-family Dwelling

C. Conditional Uses:

1. Accessory Dwelling larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a conditional use)
3. Adaptive Reuse of Historic Barns
4. Artist Studio/Gallery
5. Automobile Repair
6. Automobile Sales
7. Bank
8. Bar/Tavern
9. Bed & Breakfast
10. Building Supply Store
11. Car Wash
12. Cemetery
13. Child Care Facility
14. Commercial Water Extraction
15. Community Center
16. Crisis Shelter
17. Cultural Facility
18. Gas Station
19. Home Business
20. Hotel/Lodge/Inn (7,500 sq. ft. max. building footprint)
21. Light Industry (7,500 sq. ft. max. building footprint)
22. Medical Center
23. Mixed Use (7,500 sq. ft. max. building footprint)
24. Multi-Family Dwelling (7,500 sq. ft. max. building footprint)
25. Office (7,500 sq. ft. max. building footprint)
26. Parking Facility
27. Personal Service
28. Place of Worship
29. Post Office
30. Private Club
31. Public Facility
32. Recreation Facility/Indoor
33. Recreation Facility/Outdoor
34. Restaurant/Bar (max. 60 seats; no drive-through)
35. Retail
32. School
33. Special Events
34. Telecommunications Facility
35. Warehouse/Storage

Table 2.03 (continued)
Irasville Village District

D. Dimensional Standards (unless otherwise specified by use type):

Minimum Lot Size:	1 acre
Minimum Road Frontage	100 feet
Minimum Setbacks:	
Front Yard/other roads	40 feet from road centerline
Side Yard	15 feet
Rear Yard	25 feet; 10 feet for accessory structures
River or Stream	In accordance with section 3.12.
Maximum Building Coverage	40%
Maximum Building Height	35 feet
Minimum Building Height	2 stories above grade (excluding accessory structure not greater than 600 square feet)
Maximum Lot Coverage:	50%

Table 2.04
Commercial Lodging District (CL)

A. Purpose. The purpose of the Commercial Lodging District is to allow for the development of second homes and tourist accommodations in a portion of Waitsfield that offers reasonably good access to ski areas, compatible existing land uses, and building sites that are out of the floodplain and may be screened by existing vegetation and slope. Development of any type in this district will be managed to avoid any adverse impacts to the scenic quality of Route 100.

B. Permitted Uses:

1. Accessory Dwelling no larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a permitted use)
3. Agriculture
4. Forestry
5. Home Child Care
6. Home Occupation
7. Single-family Dwelling

C. Conditional Uses:

1. Accessory Dwelling larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a conditional use)
3. Adaptive Reuse of Historic Barns
4. Bed & Breakfast
5. Cemetery
6. Child Care Facility
7. Commercial Water Extraction
8. Home Business
9. Hotel/Lodge/Inn
10. Recreation Facility/Outdoor
11. Multi-Family Dwelling (in PRD or PUD only)
12. Public Facility
13. Restaurant (only as an accessory to a hotel/lodge/inn)
14. Special Events

Table 2.04 (continued)
Commercial Lodging District (CL)

D. Dimensional Standards (unless otherwise specified by use type):

	Hotels/Lodge Inn	All Other Uses
Minimum Project Size	20 acres	N/A
Minimum Lot Size	0.25 acres/unit	1 acre
Minimum Road Frontage	450 feet	200 feet
Setbacks		
Front Yard	225 feet from route 100 centerline	100 feet from centerline of all roads
Side Yard	150 feet	50 feet
Rear Yard	150 feet	25 feet
River or Stream	In accordance with Section 3.12	In accordance with Section 3.12
Maximum Building Height	35 feet	35 feet

- E. **Other District Standards:** Within this district, all major subdivisions as defined in Article VII and the *Town of Waitsfield Subdivision Regulations* are subject to planned unit or planned residential development review by the Development Review Board, and associated standards, under Section 5.04. These standards may be applied to other subdivisions at the option of the subdivider.

Table 2.05
Limited Business District (LB)

A. **Purpose.** The purpose of the Limited Business District, which is characterized by a distinct land use pattern as defined in the Waitsfield Town Plan, is to enable the continued operation and limited expansion of existing businesses, and to allow for the establishment of a limited number and type of new small businesses as set forth below.

B. **Permitted Uses:**

1. Accessory Structure/Use (to a permitted use or pre-existing dwelling)
2. Agriculture
3. Forestry
4. Home Child Care (pre-existing dwelling)
5. Home Occupation (pre-existing dwelling)

C. **Conditional Uses:**

1. Accessory Dwelling
2. Accessory Structure/Use (to a conditional use)
3. Commercial Water Extraction
4. Home Business
5. Kennel
6. Light Industry (7,500 sq.ft. max. building footprint)
7. Multi-family Dwelling
8. Office (7,500 sq.ft. max. building footprint)
9. Public Facility
10. Recreation Facility/Outdoor
11. Single-family Dwelling
12. Telecommunications Facility
13. Transfer Station
14. Warehouse (indoor only; not greater than 10,000 square feet per acre)

D. **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size:	1 acre
Minimum Road Frontage	100 feet
Minimum Setbacks:	
District boundary	125 feet
Front Yard (from Route 100)	150 feet from road centerline
Front Yard (other roads)	50 feet from road centerline
Side Yard	25 feet
Rear Yard	25 feet
River or Stream	In accordance with section 3.12.
Maximum Building Coverage	25%
Maximum Building Height	35 feet

E. **Other District Standards:**

1. All uses within this District are subject to the performance standards set forth in Section 5.03.
2. All non-residential conditional uses shall be served by access to Route 100 by way of a driveway or road located entirely within the Limited Business District.

**Table 2.06
Industrial District (IN)**

A. Purpose. The purpose of the Industrial District to promote well-paying, year-round employment in the Mad River Valley by encouraging the concentration of light industrial, manufacturing and other compatible uses in an appropriate location that will have minimal negative impact on surrounding properties and the rural character of the community.

B. Permitted Uses:

1. Agriculture

C. Conditional Uses:

1. Accessory (Caretakers) Apartment
2. Accessory Structure
3. Automobile Repair
4. Accessory Use
5. Child Care Facility
6. Commercial Water Extraction
7. Contractors Yard
8. Extraction of Earth Resources
9. Light Industry
10. Manufacturing
11. Mixed Use
12. Office (see subsection E, below)
13. Public Facility
14. Recreation Facility/Outdoor
15. Restaurant (as an accessory to, and contained within another allowed use)
16. Retail (see subsection E, below)
17. Telecommunications Facility
18. Transfer Station
19. Warehouse
20. Wholesale Trade

D. Dimensional Standards (unless otherwise specified by use type):

Minimum Lot Size:	10,000 sq. ft.
Minimum Road Frontage Town Roads (TH 2 & 6):	200 feet
Minimum Setbacks:	
Town Roads (TH 2 & 6)	75 ft. from road centerline, or as required by the Development Review Board in accordance with Conditional Use approval
District Boundary	50 feet
Lot boundaries	25 feet, or as approved by the Development Review Board pursuant to conditional use approval (Sec. 5.03) or Planning Commission pursuant to PRD approval (Sec. 5.04)
River or Stream	In accordance with section 3.12.

Table 2.06 (continued)
Industrial District (IN)

Maximum Lot Coverage	60 % on any lot or, with approval of the Development Review Board pursuant to PUD review (Section 5.4), higher lot coverage may be permitted on a single lot if offset by the preservation of open space on a lot located elsewhere in the Industrial District. In no circumstances will the total lot coverage of the entire district exceed 60%.
Maximum Building Height	50 feet (also see Section 3.06)

E. Other District Standards:

1. **Retail uses** within the Industrial District shall not exceed 1,000 square feet of gross floor area in any structure, or greater than 5,000 square feet of gross floor area within the entire district.
2. **Office uses** within the Industrial District shall be limited to those activities associated with other allowed uses within the district, or business activities that do not involve regular access to the general public and/or frequent visits from customers or clients (e.g., real estate, insurance, lawyers, medical offices).
3. The **subdivision** of any lot shall be subject to PUD review procedures and standards in accordance with Section 5.04.
4. **Landscaping & Screening.** In reviewing applications for conditional use review pursuant to Section 5.03, the Development Review Board may require the installation of landscaping and/or screening to limit or prevent visibility of structures, storage areas and associated uses from adjacent parcels and town roads. The Board also may require the establishment and maintenance of a vegetative screen along district boundaries to provide a visual barrier between the district and adjacent residential areas. Such screening should consist of a mix of tree and plant species designed to maintain a naturalized appearance and dense visual barrier.

In addition to landscaping requirements, all development shall be sited, designed and landscaped to be minimally visible from Route 100, and shall not have an undue adverse impact on the visual character of the adjacent Mad River Valley Rural Historic District, listed on the National Register of Historic Places.

5. All uses shall comply with the **performance standards** set forth in subsection 5.03(D)(9). In reviewing applications for conditional use review within the Industrial District, the Development Review Board shall require a proposed construction plan, a description and specifications for all proposed machinery, operations, and products to be located and/or stored on-site, and a description of the methods or techniques to be used to ensure siting, use and operation in conformance with performance standards listed in subsection 5.03(D)(9).

Table 2.07
Agricultural- Residential District (AR)

A. **Purpose.** The purpose of the Agricultural-Residential District is to provide for low density residential development; to permit the continuance and expansion of agricultural operations; to encourage clustered housing units to preserve open space; to preserve the significant scenic resources of this district, including scenic roads, historic structures, and open spaces; and to protect natural resources.

B. Permitted Uses

1. Accessory Dwelling no larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a permitted use)
3. Agriculture
4. Forestry
5. Home Child Care
6. Home Occupation
7. Single-family Dwelling

C. Conditional Uses:

1. Accessory Dwelling larger than 800 sq. ft. or 30% of the gross floor area of the principal dwelling, whichever is greater
2. Accessory Structure/Use (to a conditional use)
3. Adaptive Reuse of Historic Barns
4. Bed & Breakfast
5. Cemetery
6. Child Care Facility
7. Commercial Water Extraction
8. Cultural Facility
9. Extraction of Earth Resources
10. Home Business
11. Mobile Home Park
12. Multi-family Dwelling (3 dwelling units or greater in PRD only)
13. Public Facility
14. Recreation Facility/Outdoor
15. Small-scale processing of farm and forest products
16. Special Events
17. Telecommunications Facility

D. Dimensional Standards (unless otherwise specified by use type):

Minimum Lot Size:	1 acre
Bed & Breakfast	0.33 acre/unit
Minimum Road Frontage	
Scenic roads	200 feet
All other roads	90 feet
Minimum Setbacks:	
Front Yard (from road centerline)	75 feet
Side Yard	25 feet
Rear Yard	25 feet
River or Stream	In accordance with section 3.12.
Maximum Building Coverage:	N/A
Maximum Building Height:	35 feet

**Table 2.08
Forest Reserve District (FR)**

A. **Purpose.** The Forest Reserve District is to protect significant forest resources and water supply watersheds at higher elevations and to limit development in areas with steep slopes, shallow soils, unique or fragile resources, headwater streams, wildlife habitat, and poor access to Town roads and community facilities and services.

<p>B. Permitted Uses:</p> <p>In the Forest Reserve District, the following uses are permitted by right:</p> <ol style="list-style-type: none"> 1. Agriculture 2. Forestry 	<p>C. Permitted uses on lots having received sufficient review under Waitsfield Subdivision Regulations as of January 1, 2002:</p> <p>In the Forest Reserve District, on lots depicted on survey maps having received final subdivision approval and recorded in the Waitsfield Land Records at Map Slides #116A and #166, the following uses are permitted by right:</p> <ol style="list-style-type: none"> 1. Accessory use. 2. Agriculture 3. Forestry 4. Single-family Dwelling. 	<p>D. Conditional Uses:</p> <p>In the Forest Reserve District, with the exception of lots listed under subsection C above, the following uses are permitted with the approval of the Development Review Board pursuant to Section 5.03:</p> <ol style="list-style-type: none"> 1. Accessory apartment less than 1,700 sq. ft. (below elevation of 1,700' msl only). 2. Accessory Use. 3. Commercial Water Extraction 4. Home Occupation 5. Outdoor Recreation consistent with traditional uses of forest land 6. Public Utilities. 7. Seasonal Camp 8. Single-family dwelling (only below elevation of 1,700' msl).
--	---	--

E. Dimensional Standards (unless otherwise specified by use type):

Maximum Density:	1 unit per every 25 acres (see subsection F below)
Building Height:	35 feet
Lot Setbacks:	See subsection F below
Stream Setbacks:	See subsection F below
Road Frontage:	200 feet

F. Special District Provisions.

1. **Forest Management.** Forestry activities shall meet all applicable state regulations, and shall, as a minimum standard, comply with Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, published by the Vermont Department of Forests, Parks & Recreation.
2. **Headwaters Protection.** An undisturbed, naturally vegetated buffer strip shall be maintained for a distance of 150 feet from any stream that appears on the USGS 7.5 series topographic maps, and 75 feet from any unmapped intermittent (seasonally flowing) stream. With the approval of the Development Review Board pursuant to Section 5.03, minimal clearing may be permitted to allow the development and maintenance of driveway and utility crossings within the designated buffer.

Table 2.08 (continued)
Forest Reserve District (FR)

3. **Density & Siting.** In addition to the standards set forth in Section 5.03, the Development Review Board shall ensure that all proposed development complies with the following:
- a. **Lot Size Standards.** Within the Forest Reserve District, lots may be created which are less than the 25 acres providing that the total residential density of any parcel does not exceed one dwelling unit per every 25 acres. Lots less than 25 acres in size created after January 1, 2002, shall be reviewed in accordance with Section 5.04 Planned Residential Development. Lots less than 25 acres in size shall make provision for the protection of the balance of the undeveloped acreage as open space. The minimum lot size for lots created prior to January 1, 2002 shall be 10 acres.
 - b. **Setbacks and Site Layout.** The Development Review Board may limit or restrict the size and/or location of structures, and establish minimum setbacks, based upon site conditions to ensure that proposed development:
 - i. is minimally visible from off site, and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point; and
 - ii. will not adversely affect natural and scenic resources and fragile areas identified in the Waitsfield Town Plan or through site investigation, including but not limited to wetlands, streams, critical habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal.
4. **Sewage Disposal for Seasonal Camps.** Alternative sewage disposal methods proposed for seasonal camps shall be subject to approval by the Development Review Board. Alternative systems are meant to include, but are not limited to, composting toilets, incinerating toilets and outhouses, designed in accordance with State of Vermont Standards.

Table 2.09
Historic Waitsfield Village Overlay (HWVO) District

A. **Purpose:** The purpose of the Historic Waitsfield Village Overlay District is to maintain the historic character and architectural integrity of the Waitsfield Village Historic District listed on the National Register of Historic Places.

<p>B. Permitted Uses:</p> <p style="text-align: center;">As established by the underlying district.</p>	<p>C. Conditional Uses:</p> <ol style="list-style-type: none"> 1. As established by the underlying district; and 2. Demolition of Historic Structures (in accordance with subsection E, below).
--	--

D. **Area, Yard, Coverage, Height and other Standards**

All applicable standards of the underlying district shall apply.

E. **Additional District Standards**

1. **Exterior Alterations.** When reviewing applications for conditional use review which involve exterior alterations to buildings identified as contributing structures to the Waitsfield Village Historic District listing on the National Register of Historic Places, the applicant and Development Review Board should refer to *The Secretary of Interior's Standards for Rehabilitation* of historic structures for guidance on the appropriateness of the proposed alterations.

2. **Demolition of Historic Structures.** No building that is identified as a contributing structure to the Waitsfield Village Historic District listing on the National Register of Historic Places shall be demolished, in part or in its entirety, without the approval of the Development Review Board as a conditional use in accordance with Section 5.3. In addition to the application requirements and standards set forth in Sections 5.2 and 5.3, the following submission requirements and associated standards are required:
 - a. The applicant shall provide photographs that clearly indicate the current condition of the structure.
 - b. The applicant will submit documentation that clearly indicates the extent of the proposed demolition.
 - c. Not less than 10 days prior to the Development Review Board 's first public hearing to consider the application, the applicant shall provide a copy of the complete application, including all accompanying materials listed in subsections a and b above, to the Mad River Valley Rural Resource Commission (a certified local government) and the Vermont Division for Historic Preservation.
 - d. In granting approval for demolition, the Development Review Board shall find that a minimum of one of the following standards has been met:

Table 2.09 (continued)
Historic Waitsfield Village Overlay (HWVO) District

- i. the structure poses an immediate threat to public health and safety;
 - ii. the retention of the structure would result in undue hardship on the part of the owner; or
 - iii. the proposed demolition, although involving a portion of a contributing structure, is only a minor portion of the structure.
- e. Prior to granting approval for demolition, the Board may recess the public hearing for not more than 120 days to provide an opportunity for any interested person to demonstrate that the proposed demolition does not meet any of the three standards set forth in subsection d above, and that viable alternatives to demolition are available.

**Table 2.10
Flood Hazard Area Overlay District (FHO)**

A. Purpose. The Flood Hazard Area Overlay District includes areas subject to a one percent or greater chance of flooding in any given year (i.e., 100-year floodplains) as depicted on the most recent National Flood Insurance Program maps issued by the Federal Insurance Administration for the Town of Waitsfield. The purpose of this district is to promote the public health safety and welfare; to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard; and to minimize losses due to floods.

<p>B. Permitted Uses:</p> <ol style="list-style-type: none"> 1. Accessory Use (to a permitted use) 2. Agriculture 3. Home Child Care 4. Forestry 5. Home Occupation 	<p>C. Conditional Uses:</p> <ol style="list-style-type: none"> 1. All other permitted uses as specified for the underlying zoning district. Such uses shall be subject only to conditional use review standards specific to flood hazard areas under Section 5.03. 2. All conditional uses as specified for the underlying zoning district. Such uses shall be subject to all conditional use review standards, including those specific to flood hazard areas under subsection 5.03(F).
---	---

D. Dimensional Standards:

All applicable standards of the underlying district shall apply.

E. Other Flood Hazard District Standards:

1. Development within designated areas of special flood hazard shall be subject to the provisions of Section 5.03, as well as any applicable requirements of the underlying zoning district. Where this overlay district imposes more restrictive standards on the construction or use of structures or land, the standards under this overlay district shall apply. See also state notification requirements under Section 6.01.
2. Uses permitted within the Flood Hazard Area Overlay which are not subject to flood hazard area review include agriculture and forestry, unimproved open space, and those uses generally permitted within existing single-family dwellings (i.e., child care and group homes as defined, and home occupations). All other uses and structures, including but not limited to new or expanded single-family dwellings, shall be subject to conditional use review under the provisions of Section 5.03, as well as all other applicable municipal and state regulations.

F. Warning and Disclaimer:

District designation does not imply that lands outside of designated flood hazard areas, or land uses permitted within designated flood hazard areas, will be free from flooding or flood damages. District designation and the administration of associated standards shall not create liability on the part of the municipality, or any official or employee thereof, for any damages that result from the application of this bylaw or any decision lawfully made thereunder.

ARTICLE III. GENERAL REGULATIONS

Section 3.01 Abandonment of Structures

- A. No zoning permit shall be required for the stabilization of damaged structures to prevent hazards to public health or safety, or to adjoining properties, structures or uses; nor for the timely repair, or reconstruction of damaged structures to the extent of their prior condition and use. Rebuilding that results in changes in density, dimension or use under applicable provisions of these regulations shall require a zoning permit.
- B. Within 12 months after the abandonment of a permanent or temporary structure that has been demolished, destroyed, or substantially damaged; or within 12 months after the abandonment of construction on a substantially incomplete structure, the owner shall either:
 - 1. apply for a zoning permit under Section 6.1 to resume repair, reconstruction or construction, and thereby confirm the intent not to abandon the structure; or
 - 2. remove all improvements and materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.
- C. The demolition of structures in the Historic Waitsfield Village Overlay District shall be subject to the requirements set forth in Table 2.09.

Section 3.02 Access Management

- A. **Access to Pre-Existing Lots.** In accordance with the Act [§4412(3)], no land development may be permitted on lots in existence prior to the effective date of these regulations which does not either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by means of a permanent easement or right-of-way at least 20 feet wide. In deciding whether to grant, condition or deny approval, the Commission shall consider the intended use of the property, safety, traffic, road and site conditions, the purpose of the district in which the parcel is located and associated policies of the *Waitsfield Town Plan*. Lots created after the effective date of these regulations are subject to all applicable provisions herein regarding access and frontage.
- B. **Frontage on Private Roads.** Frontage requirements for parcels served by private rights-of-way that are a minimum of 50 feet in width shall be the same as the requirements for parcels served by public rights-of-way.
- C. **Driveway Access (Curb Cuts).** Access onto public highways is subject to the approval of the Waitsfield Selectboard or, in the case of state highways (Route 100 and Route 17), the approval of the Vermont Agency of Transportation. As a condition to access approval, compliance with all local ordinances and regulations pertaining to roads and land use is required. Access permits must be obtained prior to the issuance of a zoning permit. In the event approval of the Development Review Board is required for a conditional use under Section 5.03, the access permit(s) shall be obtained from the Selectboard after Development Review Board approval. In addition, the following provisions shall apply to all parcels having road frontage on town and state highways:

-
1. With the exception of accesses (curb-cuts) used solely for agricultural or forestry purposes, no lot in existence as of the effective date of these regulations may be served by more than one curb cut. The Development Review Board may, as a conditional use approved pursuant to Section 5.03, approve additional accesses in the event that:
 - a. the additional access is necessary to ensure vehicular and pedestrian safety; or
 - b. the strict compliance with this standard would, due to the presence of one or more physical features (e.g., rivers and streams, steep slopes, wetlands), result in a less desirable site layout and design than would be possible with the allowance of an additional access; or
 - c. a traffic management plan is developed and implemented which will improve vehicular and pedestrian safety and result in a traffic circulation and parking arrangement within the site that better achieves the standards set forth under Section 5.03 than would be possible with a single access; or
 - d. the parcel(s) is occupied by multiple uses (e.g., shopping centers, PUDs) and the additional access would result in better traffic circulation and safety than a single access.
 2. Access to properties located along Route 100 may be limited to secondary or frontage roads. In the event that a frontage road is planned (e.g., identified in the Town Plan, Official Map and/or Capital Budget), but is not yet constructed, temporary access may be permitted onto Route 100 with conditional use approval from the Development Review Board. In granting temporary access, the Board may place appropriate conditions that the access be relocated within a reasonable time after construction of the frontage road.
 3. In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, or parcels having direct access to Route 100, the Development Review Board may require provision for shared access between adjoining properties. Requirements for shared access shall be made either at the time of conditional use approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.
 4. Applicants for a zoning permit for any parcel where the number of existing accesses exceeds the number allowed under this section must eliminate or combine accesses in order to meet the applicable standard, unless otherwise approved by the Development Review Board in accordance with Section 5.03.
 5. Subdivision of a parcel after the effective date of these regulations shall not create a right to construct more than one access unless otherwise approved by the Development Review Board in accordance with the *Waitsfield Subdivision Regulations*.
 6. Access shall be limited to a defined width approved by the Development Review Board, and shall not extend along the length of road frontage; in the case of excessively wide pre-existing driveways, the Development Review Board shall require the reduction in driveway width as a condition of approval under Section 5.3, unless such reduction would place an undue burden on the continued operation of an existing land use.
 7. An access shall be located at least 100 feet from the intersection of public road rights-of-way (125 feet from centerline), for all uses except for single and two family dwellings, which shall be located at least 50 feet from such intersections (75 feet from centerline). Existing structures which do not meet these standards because of pre-existing site

conditions may be required to make improvements necessary to bring the property closer to compliance with these standards as a condition of approval under Section 5.03.

- D. **Driveways.** New driveways (access drives which serve 2 or fewer lots) shall meet the following standards:
1. Driveways shall be constructed to town driveway standards (*Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways*) unless otherwise required under conditional use review.
 2. Driveways shall be set back a minimum of 10 feet from adjoining property lines. With the concurrence of an abutting property owner or as a condition of Development Review Board approval in accordance with Section 5.3, however, driveway access to contiguous properties may be combined.
 3. Single lane driveways exceeding 500 feet in length must include, at minimum, one 10' x 30' pull-off area.

Section 3.03 Conversion and Change of Use

The conversion or change in use of land, existing buildings or other structures to another use is subject to the provisions of these regulations as follows:

- A. The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state or federal regulations currently in effect.
- B. 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 meets the lot size, setback, parking and other requirements applicable to the proposed use.
- C. A conversion or change of use from one permitted use to another permitted use, or from a conditional use to a permitted use, requires a zoning permit issued by the Administrative Officer under Section 6.01.
- D. A conversion or change of use from a permitted to a conditional use, or from a conditional use to another conditional use, requires conditional use approval under Section 5.03.
- E. Changes or conversions involving nonconforming uses and/or nonconforming structures also are subject to and will be reviewed under Section 3.08.

Section 3.04 Equal Treatment of Housing

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 Waitsfield except under the same terms and conditions as conventional housing is excluded. A mobile home shall be considered a single-family dwelling, and must meet the zoning requirements for such dwelling, except when located in an approved mobile home park (see Section 4.08) or mobile home sales establishment, or allowed as a temporary structure (Section 4.12).

-
- 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 (see Section 4.08) within designated zoning districts.
 - C. Accessory dwellings are provided for under these regulations in accordance with the requirements of the Act regarding accessory dwelling units.
 - D. No provision of these regulations shall be construed to prevent the establishment of multi-family dwelling units within designated zoning districts and in accordance with local standards.

Section 3.05 Existing Small Lots

- A. In accordance with the Act [§4412(2)], any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such a lot is not less than one-eighth (c) acre in area, with a minimum width or depth dimension of 40 feet. Such development shall conform to all other requirements of these regulations.
- B. If such a lot is, or subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of these regulations. However, such a lot shall not be deemed merged and may be separately conveyed if:
 - 1. the lots are conveyed in their preexisting, nonconforming configuration; and
 - 2. on the effective date of these regulations, 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 the replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.
- C. If, subsequent to separate conveyance, as authorized under Subsection (B), a wastewater system fails, the owner shall be required to obtain from the Secretary of the Agency of Natural Resources a wastewater permit as required under state subdivision regulations, or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

Section 3.06 Height Requirements

- A. Except for the following structures, which are specifically exempt from the height provisions of these regulations, no structure shall exceed district height requirements unless such structure meets the standards set forth in subsections B and C, below.
 - 1. Agricultural structures, including barns and silos, in accordance with the Act [§4413(d)];
 - 2. Church steeples, spires and belfries;

-
3. Appurtenances to a public or residential use, such as antennas, satellite dishes less than 3 feet in diameter, flag poles, chimneys, and weather vanes, which are less than 50 feet in height from the average finished grade at ground level to the highest point of the appurtenance.
- B. The Development Review Board may, as a conditional use subject to conditional use review under Section 5.03, approve a building height in excess of the standards for the district in which it is located for the following uses:
1. Structures associated with an industrial use or public utility in which the additional height is necessary to its operation or function. Such structures include, but are not limited to, industrial cranes or silos, air navigational aids, high voltage transmission lines or telecommunications facilities (in accordance with Section 4.11).
 2. Accessory structures associated with the production of renewable energy which are less than 50 feet in height from the average finished grade at ground level to the highest point of the structure, such as wind generators with blades less than 20 feet in diameter and roof-top solar collectors.
- C. In approving building heights in excess of the district standards, the Development Review Board shall find that the proposed structure meets the standards set forth in Section 5.4, in addition to the following:
1. the structure shall not constitute a hazard to public safety, or to adjoining properties;
 2. the portion of the structure above the district height requirement shall remain unoccupied except for normal maintenance, unless occupancy is expressly approved by the Development Review Board;
 3. front, side and rear yard setbacks are sufficient to protect adjoining properties and rights-of-way in the event of structural collapse; and
 4. the structure is not to be used for advertising purposes.

Section 3.07 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 a mixed use; or otherwise approved by the Development Review Board as part of a PUD or PRD in accordance with Section 5.04; or involving the adaptive reuse of a historic barn in accordance with Section 4.02; or agricultural and forestry uses.
- B. Notwithstanding subsection (A), within the Agricultural-Residential District, the Development Review Board may allow two principal uses or structures on a single parcel (e.g., extraction of earth resources on a parcel also occupied by a single-family dwelling) as a conditional use in accordance with Section 5.3. In addition to the conditional use standards, a parcel occupied by multiple principal uses shall comply with the following:
1. The parcel shall be of a size sufficient to meet the minimum lot size requirement for the second principal use or structure, independent of the lot area required to satisfy the minimum lot size for the other principal use or structure.
 2. Each principal use or structure shall meet all applicable requirements of these regulations.

-
3. In no case shall two dwelling units be allowed on a single parcel, unless one is allowed as an accessory dwelling to the other in accordance with Section 4.1, or the two dwelling units are part of a planned residential development approved by the Development Review Board under Section 5.4.
 4. Both principal uses shall remain in common ownership unless the parcel is subdivided into two or more lots in conformance with other applicable provisions of this bylaw and the *Waitsfield Subdivision Regulations*.
- C. An accessory structure must conform to all lot setback, coverage and other dimensional requirements for the district in which it is located.
- D. No lot shall be so reduced in area that it cannot conform to area, yard, setback, frontage, coverage and other dimensional requirements as prescribed in these regulations, except as approved by the Development Review Board for PUDs or PRDs in accordance with Section 5.04.
- E. Any interior lot which does not have frontage on a public or private road or public waters shall meet a minimum setback requirement for all its yards equal to the side yard setback distance for the district in which it is located.
- F. Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and rear yards unless otherwise specified in Section 2.03.

Section 3.08 Nonconforming Structures & Nonconforming Uses

- A. **Nonconforming Structures.** Any pre-existing structure or part thereof which is not in compliance with the provisions of these regulations concerning density, set backs, height, lot size or other dimensions, 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 existing on the effective date of these regulations 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 noncompliance (see definition of degree of noncompliance in Article VII);
 2. may be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of noncompliance which existed prior to the damage and provided the reconstruction is commenced within 12 months from the date that the structure was damaged.
 3. May be structurally enlarged, expanded or moved, upon approval of the Administrative Officer, provided the enlargement, expansion or relocation does not increase the degree of noncompliance or, with approval of the Development Review Board as a conditional use under Section 5.03, a nonconforming structure may be enlarged or expanded in a manner which increases the degree of noncompliance provided the expansion or enlargement:
 - a. does not increase the total volume or area of the nonconforming portion of the structure in existence prior to March 5, 2002 by more than 50%; and

-
- b. does not extend the nonconforming feature/element of a structure beyond that point which constitutes the greatest pre-existing encroachment; and
 - c. complies with all conditional use standards.
4. may, subject to conditional use review under Section 5.03, undergo alteration or expansion which would increase the degree of noncompliance 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).

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(7)], nonconforming uses which exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

1. 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.
2. 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, unless reasonable effort is being made to reinstate the use to the reasonable satisfaction of the Development Review Board. The owner of such a use shall be granted an additional one year to re-establish said use upon filing a notice of the owner's intent to do so with the Administrative Officer within one year of abandonment or discontinuance.
3. shall not be changed to another non-conforming use without the approval of the Development Review Board in accordance with Section 5.3, 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 Development Review Board subject to conditional use review under Section 5.03. In no case shall a nonconforming use be moved to a different lot within the same district in which it is located.

Section 3.09 Parking & Loading Standards

A. Parking. For every structure or use erected, established, altered, extended or changed, associated off-street parking spaces shall be provided on the same lot, or on adjacent lots under the same ownership or under permanent easement, as set forth below:

1. A minimum number of parking spaces as determined by the proposed use shall be provided in accordance with the requirements listed in Table 3.01.
2. All required parking spaces shall have a minimum width of 9 feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient to permit year-round use unless otherwise waived in accordance with subsection C, below..
3. Non-residential parking areas are to be located to the side or rear of buildings, unless otherwise permitted by the Development Review Board under conditional use review.

-
4. In addition to the requirements listed in Table 3.01, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (ADA) requirements; and, the Board may require at least one bicycle rack for use by employees and/or the general public.
 5. Where a parcel fronts upon a public or private road on which on-street parking spaces are clearly marked, the on-site parking requirements for that parcel may be reduced from the requirements set forth in Table 3.01 by one space for every 25 linear feet of frontage where parking is permitted (excluding frontage used for driveway accesses, pedestrian cross walks, and/or service areas).
 6. For development subject to conditional use review, shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities may be required as a condition of approval.

**Table 3.1
Minimum Off-Street Parking Requirements**

Use	Parking Spaces
Automobile Service Station	5 per service bay
Bar/Tavern	1 per employee; 1 per every 3 persons of maximum capacity as defined by Vermont Dept. of Labor & Industry and/or Vermont Fire Marshall, whichever is greater.
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Community Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Commercial/Retail Establishments	1 per 300 sq. ft. of gross floor area
Home Day Care	2 per dwelling unit, and 1 per additional employee
Home Occupation/Home Business	2 per dwelling unit, and 1 per additional employee
Industry	1.25 per employee, for the largest shift
Lodging (hotel, motel, inn, lodge, dormitory)	1 per lodging unit, and 1 per employee for the largest shift
Medical Clinics	6 per doctor or other primary professional care giver
Mixed Use	total required per each individual use
Personal Services	1 per employee, and one per customer service station
Private Club	1 per 4 members
Professional, Government, Business Offices	1 per 300 sq. ft. of gross floor area; 1 per 400 sq. ft. of gross floor area in the Village Residential District and Village Business District
Public assembly (church, auditorium, cultural facility, community center, etc.)	1 per 5 seats or 200 sq. ft. of gross floor area, whichever is greater
Residential (Accessory Dwelling)	1 per dwelling unit
Residential (Multi-Family Dwelling)	1.5 per dwelling unit
Residential (Single-Family Dwelling)	2 per dwelling unit
Restaurants/Eating Establishments	1 per 4 seats, and one per employee for the largest shift
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee for the largest shift
Unspecified	As determined by the Development Review Board under conditional use review, in accordance with ITE standards.

- B. Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient off-street loading and service areas shall be provided. Service areas also may be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, regular drop-off and pick-up of people (e.g., day care facility) and 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 so that parked vehicles will not block or obstruct sight visibility at intersections or to or from any internal road or access.

-
- C. **Waivers.** The Development Review Board, under conditional use review (Section 5.03), , may waive on-site parking, loading and/or service area requirements based on the Board’s 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 or inappropriate for the specified use, site conditions or location:
1. Green areas are to be set aside and maintained as open space for future conversion to parking, loading and/or services areas in the event that the spaces initially permitted are subsequently deemed inadequate by the Board to meet demonstrated need;
 2. adequate shared parking, loading, and/or services areas for use by two or more uses exist on the same or contiguous lots, under common ownership or a permanent easement, or the shared parking serves two uses whose hours of operation are distinctly different;
 3. adequate off-site public parking exists within reasonable walking distance of the establishment;
 4. the proposal is for the development of affordable or elderly housing as defined herein; and/or
 5. in granting a waiver, the Development Review Board may require that a future change in use or ownership be subject to additional review to determine whether the reduction in parking continues to be unnecessary or inappropriate.
 6. All waivers shall be subject to periodic review to determine whether the reduction in parking continues to be unnecessary or inappropriate.

Section 3.10 Scenic Road Standards

- A. In recognition of their scenic qualities and in furtherance of the goals and objectives of the Town Plan, development along the roads identified in Table 3.02 shall be subject to additional consideration in accordance with the following provisions.
- B. When reviewing applications for conditional use approval or Planned Residential Developments, the Development Review Board or Planning Commission (whichever is applicable) shall consider the impact of the development on the features that contribute to the scenic qualities of the particular road segment. To evaluate those scenic qualities, the Board shall consider information such as, but not limited to, the Waitsfield Town Plan, Mad River Valley Rural Resource Protection Plan, and other planning and open space preservation studies and materials, in addition to site analysis conducted as part of the review process. Development may be limited or restricted to ensure that:
1. Road improvements necessitated by the development do not result in the loss of physical features within the road right-of-way that contribute to the road’s scenic status, such as stone walls, street trees or the roads surface materials and width; and/or
 2. the development is located to avoid adverse impact on scenic views from the road, especially with regard to the placement of structures within the foreground or background of such views (as opposed to the middle-ground), or the conspicuous placement of development in open meadows or steep slopes and ridgelines where they will be visible from multiple vantages.

**Table 3.2
Scenic Roads**

Road #	Name	Description
State Aid 1	E. Warren Rd	In its entirety
State Aid 3	North Road	In its entirety
Town Road 4	Common Road	In its entirety
Town Road 10	Floodwoods Road	In its entirety
Town Road 16	East Road	In its entirety
Town Road 20	Meadow Road	In its entirety
Town Road 26	Brook Road	In its entirety
Town Road 27	Cross Road	In its entirety
Town Road 28	Palmer Hill Rd	In its entirety
Town Road 31	Rolston Road	In its entirety
Town Road 35	Sherman Road	In its entirety
Vermont 100	Main Street	North of Waitsfield Village District to the Moretown Town Line; South of Irasville District to the Warren Town Line.

Section 3.11 Sign Requirements

- A. **Purpose.** The purpose of this section is to promote and protect the public health, safety and welfare by regulating existing and proposed signs in the Town of Waitsfield. It is further intended hereby to control and reduce the proliferation of signs in order to protect the economic and scenic value of the town, and in order to prevent hazards to users of the roads in the town.
- B. **Procedure.** The erection, replacement or substantial alteration of any sign shall require a zoning permit issued by the Administrative Officer in accordance with Section 6.01 unless specifically exempted under subsection D, below.
- C. **General Provisions.** No signs shall be permitted in the Town of Waitsfield except as hereinafter provided.
 - 1. Signs and other advertising structures, together with all their supports, braces, hooks, guys and anchors, shall be of substantial and sturdy construction, shall be kept in good repair, and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe and orderly appearance.
 - 2. All signs shall comply with the following restrictions:
 - a. In computing the area of a sign, not including the supporting structure, the measured area shall encompass the smallest rectilinear shape within the supporting structure which can contain a sign, including the panel and frame, if any.
 - b. No sign shall be permitted within or over the right of way to a public road.

-
- c. No sign shall be permitted which appears to direct the movement of traffic or which interferes with, imitates or resembles any official traffic, directional or route sign, signal or device.
 - d. No sign shall be permitted which prevents a clear and unobstructed view of official signs or approaching or merging traffic.
 - e. Signs shall be illuminated so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for sign lighting, provided that the light source is directed entirely onto the sign surface, and does not adversely affect neighboring properties, rights-of-way, or cause glare or interfere with the safety of vehicular traffic. The light source (bulb) shall not be visible from adjacent properties or roads.
 - f. No sign shall be illuminated internally, or by neon, flashing, moving or intermittent lights, nor shall it contain any moving parts.
 - g. No free standing sign may be more than 15 feet high nor less than 15 feet from any streetline nor nearer than 10 feet to any other lot line.

D. **Exempt Signs.** Signs depicted as being exempt from these regulations in Table 3.3 are permitted without a permit from the Administrative Officer.

E. **Prohibited Signs.** Signs depicted as being prohibited in Table 3.03 shall be deemed prohibited.

F. **Permitted Signs.** The following signs may be permitted by the Administrative Officer in accordance with Section 6.01, and the following provisions:

1. **Principal Business Sign.** One principal business identification sign attached to or free standing from the premises not to exceed sixteen (16) square feet, per face, shall be permitted. Support structures shall not add more than an additional two feet in width and/or height to the sign.
2. **Building Signs & Wall Graphics.** Lettering and/or graphics may be affixed or applied directly to the front facade of a building, including its wall and windows, in accordance with the following standards:
 - a. For a 2 story building, lettering and/or wall graphics shall not exceed an area equal to four times the square root of the lineal frontage of the building, up to a maximum of 100 lineal feet of frontage.
 - b. For a 1 and ½ story building, lettering and/or wall graphics shall not exceed an area equal to four times the square root of the lineal frontage divided by 1.5, up to a maximum of 100 lineal feet of frontage.
 - c. For a 1 story building, lettering and/or wall graphics shall not exceed an area equal to four times the square root of the lineal frontage divided by 2, up to a maximum of 100 lineal feet of frontage.
 - d. Regardless of building height, lettering shall not exceed 18 inches in height.
 - e. In computing the area of a building sign or wall graphic, not including the supporting structure, the area shall be the area of the smallest rectangle with a level base line which can contain a sign including the lettering, graphic, panel and frame, if any.
3. **Temporary Signs.** One temporary, portable sign, signboard or menu board per lot, or for lots with more than one permitted business; one temporary sign per curb cut, may be displayed on that lot without permit, provided all the conditions listed herein are satisfied:

-
- a. The sign may not be larger than 8 square feet per sign face, including supports, nor have more than 2 faces.
 - b. The sign shall be located so as not to block entrances or sidewalks or obstruct traffic sightlines, and shall be subject to the standards set forth in subsection 3.11 (C).
 - c. The sign shall be removed during hours when the business is not open.
 - d. The maximum allowance for display of any temporary sign on a lot shall be limited to 9 consecutive days, 14 days per calendar month, and 60 days per calendar year.

These provisions do not apply to temporary signs otherwise exempt per Section 3.11(D).

Table 3.3
Exempt and Prohibited Sign

- (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 2 square feet in area.
 - (3) One sign offering real estate for sale, not to exceed 4 square feet, to be located on the premises offered for sale, placed outside of the road right-of-way and shall be removed from the premises within 5 business days of conveyance of the property.
 - (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, lawn, or garage sale not to exceed 4 square feet in total area, which shall be displayed for not more than 10 days per calendar year and 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 for an event of a civic, philanthropic, service, or religious organization, fair, exposition, or similar event, which are placed no earlier than seven days prior to the event and which are removed the day after the event is completed.
 - (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 business 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) Murals intended solely for artistic, non-advertising purposes.
 - (14) Window signs which do not exceed 30 percent of the window pane area.
 - (15) Temporary "Help Wanted" signs not to exceed 4 square feet.
 - (16) One temporary construction sign, not to exceed 16 square feet in total area or 10 feet in height, located on the construction site, providing such sign is promptly removed immediately following completion of construction.
 - (17) One flag or banner per separate business premises, not exceeding 12 square feet in area, used to indicate the business is open or is having a sale or special event. The flag or banner must only be displayed while the business is open.

- (B) **Prohibited Signs.** The following signs are prohibited in all districts:
- (1) Signs which impair highway safety.
 - (2) Signs which are internally illuminated, animated, flashing, oscillating, revolving or made of reflective material, unless necessary for public safety or welfare.
 - (3) Signs painted on or attached to rock outcrops, trees, or similar natural features.
 - (4) Wall signs which extend above the eave of the roof.
 - (5) Permanent signs which project over public rights-of-way or property lines.
 - (6) Signs identifying businesses or uses which are no longer in existence.
 - (7) Signs located on motor vehicles which are used primarily as a support or foundation.
 - (8) Off-premises signs, except for those which conform to state laws.

3. **Appendage Signs.** An appendage sign may be made to the face of or under the principal sign of a hotel, motel, lodge, or boarding house in order to notify the public as to vacancy, and to the principal sign of a restaurant to notify the public that the facility is open or to inform the public that an event is scheduled, provided that the appendage sign is:

- a. Not larger than 2 square feet.
- b. Of the same material and character as the principal sign.

G. **Conditional Signs.** The following additional signs may be approved by the Development Review Board as a conditional use in accordance with Section 5.3, in addition to the following standards:

1. One free standing or attached sign not to exceed 36 square feet, identifying two or more separate and distinct businesses on the same premises. The use of a single place of business for multiple purposes or the sale of multiple products or services (e.g. sale of sportswear and recreational equipment) shall not constitute 2 or more separate businesses.
2. One free standing or attached signs, not to exceed 48 square feet each, if they identify ten or more businesses located on the same premises.
3. One free standing or attached sign, in addition to the principal business sign referenced in subsection F1, not to exceed 16 square feet, for a business whose premises front on two public roads, or on both sides of a public road, where such additional exposure to the public is vital to the well-being and identity of said business.
3. Up to two free-standing or attached signs not to exceed nine square feet each, identifying prices for fuel.
5. In approving conditional signs, the Development Review Board shall find that the sign meets the standards set forth in subsection C of this provision; is clear and readable; and is in the public's best interest.

H. **Enforcement of Sign Requirements.** A violation of this Section shall constitute a civil offense. Each day that a violation is continued shall constitute a separate offense. At the discretion of the enforcing officer, offenses may be pursued through a municipal civil complaint or an enforcement action as described below.

1. **Municipal Civil Complaint:** In accordance with 24 V.S.A. Sections 1974a, 1977 and 4452, the Town's Zoning Administrative Officer, the Town Administrator, or the Washington County Sheriff, upon request, may issue a municipal civil complaint for violations of this Section, with two (2) copies of said complaint to be served either in person or by first class mail to the defendant (one copy shall be retained by the issuing officer and the original shall be filed with the Judicial Bureau). The issuing officer shall utilize the forms and follow the procedures set forth by the Judicial Bureau and State law for issuance and enforcement of municipal complaints. Each civil ordinance violation shall be punishable by a fine of one hundred dollars (\$100.00). The waiver fees shall be fifty dollars (\$50.00) for a first offense, seventy five (\$75.00) dollars for the second offense, and one hundred dollars (\$100.00) for each subsequent offense in a six-month period. Nothing herein shall limit or preclude the Town from enforcing violations of this Section, or from seeking injunctive relief, in any court of competent jurisdiction by whatever means available under State law.
2. **Enforcement Action:** In the alternative, and in accordance with 24 V.S.A. Sections 4451 and 4452 and Section 6.06 of these Bylaws, an enforcement action may be brought in Environmental Court for violation of this Section of the Bylaws.

Section 3.12 Surface Water Protection Standards

- A. To prevent soil erosion, protect wildlife habitat and maintain water quality, an undisturbed, naturally vegetated buffer strip shall be maintained from the banks of streams and rivers, and the shores of ponds formed by in-stream impoundments in streams and rivers. The width of the buffer strip shall be measured from the top of the streambank or, where no streambank is discernable, from the regular highwater mark. The following table provides widths of required buffer strips based on slope and waterbody type:

Table 3.4 Standard Width of Buffer Strip (in linear feet along ground surface)	
Average grade (slope) of riparian land (land adjacent to streambank)	River & Stream Setback
0-8%	50 feet
9-15%	75 feet
15-20%	90 feet
20-30%**	100 feet
Headwater Streams	150 feet

** Add 20 feet for each additional 10% of slope

- B. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:
1. Road, driveway and utility crossings, provided such crossings comply with the standards and specifications of the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*.
 2. Streambank stabilization and restoration projects, in accordance with all applicable State and Federal regulations.
 3. Unpaved bicycle and pedestrian paths and trails, provided all improvements comply with the standards and specifications of the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*.
 4. Public recreation facilities and improved river/lake accesses.
 5. Agriculture in accordance with Acceptable Agricultural Practices (AAPs) 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.
- C. The Development Review Board may approve modification to the setback standards set forth in subsection A as a conditional use subject to conditional use review in accordance with Section 5.03, and after a determination that the proposed modification meets the following standards:
1. the proposed development is located within the Village Business District and reflects the historic settlement pattern and character of the Village; and

-
2. reasonable measures are undertaken to protect 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; and
 3. the development will not result in degradation of adjacent surface waters.
- D. The expansion or enlargement of any structure in existence prior to the effective date of this ordinance and not in compliance with subsection A, above, is permitted with the approval of the Development Review Board in accordance with Section 3.08.
- E. 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 6.01.
- F. A naturally vegetated buffer strip at least 50 feet in uniform width shall be maintained for Class Two wetlands, and 100 feet in uniform width for Class One wetlands as defined under the Vermont Wetlands Rules. No development, dredging, ditching or manipulation of vegetation will be permitted within the buffer strip nor within the wetland, unless in conformance with the Vermont Wetlands Rules. For conformance requirements, contact the Agency of Natural Resources, Department of Environmental Conservation.

ARTICLE IV. SPECIFIC USE STANDARDS

Section 4.01 Accessory Dwelling Units

- A. A dwelling unit may be allowed as an accessory to a principal use, subject to the following provisions, which also are intended to meet requirements for accessory dwelling units as set forth in the Act [§4412(1)(E)].
- B. One attached or detached dwelling unit which is accessory to a single-family dwelling, does not exceed 800 square feet in floor area or 30% of the gross floor area of the principal dwelling, whichever is greater, and meets other applicable requirements under Subsection (D), may be allowed as a permitted use in designated zoning districts with a zoning permit issued by the Administrative Officer in accordance with Section 6.01.
- C. The following types of accessory dwellings may be allowed as conditional uses in designated zoning districts, subject to conditional use review under Section 5.03 and the provisions of this Section:
1. One attached or detached dwelling unit, which is accessory to a single-family dwelling, with a floor area in excess of 800 square feet or 30% of the gross floor area of the principal dwelling, whichever is larger.
 2. One caretaker's apartment or dwelling unit which is accessory to a nonresidential use.
- D. All accessory dwellings shall:
1. meet setback requirements for the district in which they are located; for nonconforming structures, the degree of noncompliance shall not be increased by the addition of an accessory apartment or dwelling;
 2. have adequate potable water and wastewater systems in accordance with applicable municipal and state regulations; and
 3. have adequate off-street parking for the residents of the principal and accessory dwellings in accordance with Section 3.09.
- E. A zoning permit issued for an accessory dwelling shall only authorize the development of a use that is accessory to the principal use of the property and as such shall be retained in common ownership. Such a dwelling, together with the appurtenant land, may be subdivided and/or converted for conveyance or use as a principal use only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

Section 4.02 Adaptive Reuse of Historic Barns

- A. **Purpose.** To encourage the viability, reuse, restoration and rehabilitation of historic barns which are no longer associated with an agricultural use, by allowing for specified uses not otherwise allowed in the district in which they are located, within the current dimensions of such barns.

Any changes associated with the adaptive reuse shall not significantly alter the facade of the building, and shall be in keeping with the essential character of the neighborhood.

- B. Applicability.** All adaptive reuse, and associated restoration and/or rehabilitation, of historic barns shall be considered a conditional use subject to review by the Development Review Board under Section 5.03 and the provisions of this Section. Historic barns, for the purposes of these regulations, shall include all barns which are 50 years old, and are listed or eligible for listing on the state register of historic sites and structures [see definition under Article VII].
- C. Allowed Uses.** The following uses may be allowed, subject to conditional use review:
1. Permitted and conditional uses allowed in the district in which the barn is located.
 2. The following additional uses, if not otherwise allowed in the district:
 - a. Artist Studio or Gallery (with no more than 5 artisans or employees on site at any time)
 - b. Community Center
 - c. Cottage Industry
 - d. Cultural Facility
 - e. Day Care Facility
 - f. School
 - g. Warehouse
 3. A combination of the above listed uses.
- D. Special Requirements.** All adaptive reuse, restoration and rehabilitation of historic barns shall also meet the following requirements:
1. If the barn is a nonconforming structure, the adaptive reuse shall in no way increase the degree of noncompliance, except in accordance with the requirements of Section 3.08.
 2. The proposed adaptive reuse shall not significantly alter the footprint, essential character or immediate context (e.g., barnyard) of the historic barn. In reviewing proposals for adaptive reuse of historic barns, the Development Review Board shall determine that the adaptive reuse is in accordance with the Waitsfield Town Plan, and that the historic character of the barn will be retained to the extent practical. In making such a determination, the Board shall consider the guidelines set forth in Table 4.01.
- E.** A zoning permit issued for an adaptive reuse shall clearly state that the use is allowed only as a permitted use of the existing structure, and shall not be re-established if the structure is substantially modified, except in accordance with the requirements of these regulations. All applicable municipal permits and approvals shall be obtained prior to the re-establishment of such use in a substantially modified structure.
- F.** In the event that the historic barn is destroyed or demolished, the barn may be reconstructed and the adaptive re-use re-established with the approval of the Development Review Board in accordance with conditional use review under Section 5.03. In allowing such reconstruction and re-establishment, the Board shall determine that, in addition to meeting conditional use standards, the replacement structure closely replicates the historic structure in architectural style, form, massing, scale, building materials and fenestration.

**Table 4.01
Preservation Guidelines for Historic Barns**

- The historic setting of the barn should be preserved to the extent feasible
- Barn siding should be repaired and repainted, rather than be covered with artificial siding.
- Historic windows should be repaired, rather than replaced where feasible. Blocking or covering up historic windows, and inserting numerous new window openings should be avoided. New windows should be compatible with the size and scale of existing window openings.
- Changing the size of door openings should be avoided where feasible; where doors must be enlarged the visual change should be minimized. Track-hung doors are preferred over rolled steel doors. Doors no longer needed should be fixed shut rather than removed. New doors should be compatible with the size and scale of existing openings, and siding materials.
- An exterior addition should be considered only if it is essential to the continued use of the barn. If an addition is required, it should be built in a way that minimizes damage to external walls, and the internal plan. It should also be compatible with the historic barn, but sufficiently differentiated from it so that the new work is not confused with genuinely historic elements or features.
- Historic features or elements that must be altered should be documented (e.g., through photographs or architectural drawings) prior to alteration.

Section 4.03 Child Care Facilities

- A. **Home Child Care:** In accordance with the Act [§4412(5)], a state registered or licensed child care facility serving no more than 6 full-time children and 4 part-time children, as defined in 33 V.S.A. §4902(3)(A), shall be considered by right to constitute a single-family residential use of property. A zoning permit will be required only to ensure that the statutory requirements of this section, as well as other applicable provisions of these regulations, are met.
- B. **Child Care Facilities:** Child care facilities serving more than 6 full-time and 4 part-time children within a single-family dwelling, and all nonresidential child care facilities, may be allowed in designated zoning districts subject to conditional use review under Section 5.3.

Section 4.04 Commercial Water Extraction

Commercial water extraction operations may be allowed in designated zoning districts subject to conditional use review under Section 5.03, and the following additional provisions:

- A. In considering the impacts of the transportation of bulk water, the Development Review Board may consider, as a condition of approval, alternatives to trucking and on-site bulk storage of water.
- B. Commercial water extraction specifically excludes the processing of water (e.g., any bottling or packaging other than bulk transport). Such activities are only permitted in districts in which light industry is an allowed use.

Section 4.05 Extraction of Earth Resources

- A. The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource may be allowed in designated districts subject to conditional use review under Section 5.03, and findings that the proposed operation shall not:
 - 1. cause any hazard to public health and safety, or

-
2. adversely affect neighboring properties, property values or public facilities and services, surface water and groundwater supplies, or natural, cultural, historic or scenic features.
- B. In granting approval, the Development Review Board may consider and impose conditions with regard to any of the following factors as it deems relevant:
1. depth of excavation or quarrying;
 2. slopes created by removal;
 3. effects on surface drainage on and off-site;
 4. storage of equipment and stockpiling of materials on-site;
 5. hours of operation for blasting, trucking, and processing operations;
 6. effects on adjacent properties due to noise, dust, or vibration;
 7. effects on traffic and road conditions, including potential physical damage to public highways;
 8. creation of nuisances or safety hazards;
 9. temporary and permanent erosion control, including project phasing to limit exposed area;
 10. effect on ground and surface water quality, and drinking water supplies;
 11. effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
 12. effect on agricultural land; and
 13. public health, safety and general welfare.
- C. The application for a conditional use permit under Section 5.2 also shall include erosion control and site reclamation plans showing:
1. existing grades, drainage patterns and depth to water table;
 2. the extent and magnitude of the proposed operation including proposed phasing;
 3. finished grades at the conclusion of the operation; and
 4. revegetation of the site.
- D. In accordance with the Act [§4407(8)] a performance bond, escrow account, or other surety acceptable to the Selectboard may be required to ensure reclamation of the land upon completion of the excavation, to include any regrading, reseeding, reforestation or other reclamation activities that may be required.
- E. The extraction of less than 3,500 cubic yards of sand, gravel, topsoil or similar material resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted, for use on the same parcel, may be permitted by the Administrative Officer in accordance with Section 6.01.

Section 4.06 Home Occupations & Home Businesses

- A. **Home Occupations.** In accordance with the Act [§4412(4)], no provision of these regulations may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the surrounding neighborhood or area. A zoning permit is required to ensure that the proposed home occupation complies with the following standards:
1. The home occupation shall be carried on by residents of the dwelling; in addition up to 2 nonresident employees may work on the premises at any one time.

-
2. The home occupation shall be carried on within a minor portion of the principal dwelling, not to exceed a gross floor area greater than 40% of the interior floor space of the principal dwelling.
 3. A home occupation may not be located in an accessory structure unless the accessory structure includes a dwelling unit.
 4. Exterior storage or display, other than that characteristic of a residential use, is specifically prohibited.
 5. The home occupation shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference or heat which is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
 6. No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood. Home child care, as defined under Article VII, is specifically exempted from this provision.
 7. Off-street parking for residents and nonresident employees shall be provided in accordance with Section 3.09. No commercial vehicles other than passenger vehicles (e.g., cars, vans, pick-up trucks) associated with the business shall be parked on the premises.
 8. The home occupation shall meet all applicable sign standards (Section 3.11)
 9. On-site retail sales or services are prohibited.
 10. Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.

B. Home Businesses. Home Businesses, as distinguished from “home occupations” under Subsection A, may be allowed as an accessory to a single-family dwelling in designated zoning districts subject to conditional use review under Section 5.03, and the following provisions:

1. The home business shall be carried on by residents of the dwelling; in addition up to 4 nonresident employees may work on the premises at any one time.
2. The home business shall be carried on within a minor portion of the principal dwelling, not to exceed a gross floor area greater than 40% of the interior floor space of the principal dwelling or, with the approval of the Development Review Board, a home business located in an accessory structure may occupy an area greater than 40% of the interior floor space of the principal dwelling.
3. The home business shall not change the character of the neighborhood, or result in a change in the outward appearance of the dwelling or the accessory structure.
4. Exterior storage areas (e.g., for building, construction materials, dumpsters) must be completely screened year-round from public view and from neighboring properties. Landscaping may be required as appropriate. The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g., heating oil).

-
5. The home business shall not generate traffic, including delivery traffic, in substantially greater volumes than is characteristic of the neighborhood.
 6. Adequate off-street parking shall be provided for residents, employees and customers in accordance with Section 3.09. Commercial vehicles or equipment associated with the home business shall be parked in an enclosed area, or otherwise screened from public view and from adjoining properties.
 7. Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.
 8. The home business shall meet all applicable sign standards (Section 3.11)
 9. Home industries shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference or heat which is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
 10. On-site retail sales shall be minor and incidental to the business.
- C. The zoning permit issued for a home occupation or home business shall clearly state that the dwelling is permitted only as an accessory to the principal residential use of the property.

Section 4.07 Mixed Uses

In designated districts, more than one use may be permitted within a single building or on a single lot subject to conditional use review in accordance with Section 5.03 and the following provisions:

- A. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
- B. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, maximum lot coverage and minimum lot size.
- C. The mixed use meets all applicable general provisions contained in Article 3, including parking requirements under Section 3.09 based on the cumulative parking demand for the various proposed uses.

Section 4.08 Mobile Home Parks

- A. Mobile home parks may be permitted in designated districts subject to conditional use review in accordance with Section 5.03 and the following provisions:
 1. Proposed parks shall comply with the requirements of 10 VSA Chapter 153.
 2. Proposed parks shall comply with all applicable state and local laws, ordinances and regulations relating to water supply and waste disposal.
 3. The parcel of land for a mobile home park shall be no less than 5 acres in area.
 4. Each mobile home shall be located on a dedicated site of not less than 8,000 SF in area. Each site shall be landscaped with at least 3 trees of native species of at least 2.0 inch

diameter at chest height for deciduous trees or not less than 8 feet in height for coniferous trees.

5. All roads within a mobile home park shall comply with Town road standards, and adequate walkways shall be provided.
 6. Parking shall be provided in accordance with Section 3.09.
 7. A minimum of 25% of the total land area in any mobile home park shall be set aside for common recreational use or open space.
 8. All mobile home parks shall meet minimum setback requirements from the perimeter boundary for the districts in which they are located. Setback areas shall not be included in the calculation of recreation land or open space under subsection 7.
- B. Changes or alterations to park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions. Changes or alterations to individual mobile home sites or mobile homes within the park (e.g., the addition of a porch, deck or accessory structure serving the residents of the dwelling), shall be allowed in the same manner as changes or alterations to a single-family dwelling.

Section 4.09 Pond Construction

- A. The construction of ponds and other impoundments may be allowed as an accessory use in any district upon receipt of a zoning permit in accordance with Section 6.01. In the issuance of a permit the Administrative Officer shall find that:
1. Any pond that will impound, or be capable of impounding in excess of 500,000 cubic feet of water has received a permit from the Vermont Department of Environmental Conservation in accordance with the requirements of 10 V.S.A. Chapter 43.
 2. Any pond involving the alteration of a stream has received a stream alteration permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41.
- B. In addition to the application materials set forth in Section 5.2, an application to construct any pond involving the impoundment of water through the creation of an embankment, berm, or other structure that exceeds the natural grade of the site and contains greater than 20,000 cubic feet of water shall include written certification that the pond has been designed by a state licensed professional engineer. Applications for the damming of streams to form an impoundment area of 5 acres or more are also subject to state agency referral requirements under Section 6.1, and shall also include the required report for submission to the Vermont Department of Environmental Conservation.

Section 4.10 Public Facilities

- A. In accordance with the Act [§4413(a)], the following uses are allowed within all zoning districts subject to conditional use review pursuant to Section 5.3 and the standards set forth in subsection C:
1. Public and private hospitals.

-
2. Regional solid waste management facilities certified by the State – excluding Transfer Station [10 V.S.A., Chapter 159].
 3. Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].
- B. In accordance with the Act [§4413(a)], following uses are allowed within designated zoning districts subject to conditional use review pursuant to Section 5.0 and the standards set forth in subsection C:
1. State or community owned and operated institutions and facilities (see Public Facility).
 2. Public and private schools and other educational institutions certified by the Vermont Department of Education (see School).
 3. Churches, places of worship, convents and parish houses (see Places of Worship).
 4. Regional solid waste management facilities certified by the State – Transfer Station only (see Transfer Station).
- C. In reviewing public facilities listed in subsections (A) and (B), the Development Review Board shall ensure that the proposed use complies with all applicable district standards under Article II and conditional use standards under Section 5.3, only to the extent that such standards relate to location, size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, traffic, noise, lighting, and landscaping or screening requirements associated with the proposed public facility.

Section 4.11 Telecommunications Facilities

- A. New or expanded telecommunication facilities, including but not limited to towers and accessory structures, may be permitted in designated zoning districts as conditional uses subject to review under Section 5.3 and the following provisions:
1. A proposal for a new tower shall not be permitted unless it is determined by the Development Review Board that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure.
 2. New towers shall be designed to accommodate the co-location of both the applicant's antennas and comparable antennas for one or more additional users, depending on tower height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
 3. All towers, including antennae, shall not exceed a height of 10 feet higher than the surrounding forest canopy or, in the case of towers located in open (unforested) areas, shall not exceed a height of 50 feet, as measured from the lowest grade at ground level to the top of the highest structure or component.
 4. Towers shall be set back from all property lines and public rights of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the Development Review Board:
 - a. if tower design and construction guarantees that it will collapse inwardly upon itself, and there is no risk of damage to adjoining private or public property or injury to persons; or
 - b. to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.

-
5. Tower construction and wiring shall meet all state and federal requirements, including but not limited to Federal Communication Commission requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
 6. New towers shall be sited and designed to minimize their visibility. No tower shall be located on a ridge line or hill top, and shall be sighted so that the highest point of the facility does not exceed the highest point of land in the immediate vicinity of the tower, and does not exceed the height of 10 feet higher than the surrounding tree canopy or exceed the height of the adjacent ridgeline or hill top. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
 7. Towers shall be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.
 8. Towers shall not be illuminated by artificial means and shall not display strobe lights.
 9. The use of any portion of a tower for signs other than warning or equipment information is strictly prohibited.
 10. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment, meet all other minimum requirements for the district in which they are located and comply with the standards set forth in subsection 3.2. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
 11. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other form of surety acceptable to the Select Board may be required to ensure tower removal and site reclamation.
- B. In addition to the site development plan required under Section 5.2, applications for new towers shall also include the following:
1. a report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
 2. information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available;

-
3. written documentation that the proposed tower will comply with all requirements of the Federal Communications Commission and Federal Aviation Administration; and
 4. any additional information needed to determine compliance with the provisions of these regulations.
- C. Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted by the Development Review Board pursuant to conditional use review under Section 5.3 provided that:
1. no changes are made to the height or appearance of such structure except as required for mounting;
 2. no panel antenna shall exceed 72 inches in height or 24 inches in width;
 3. no dish antenna shall exceed 3 feet in diameter;
 4. any accompanying equipment shall be screened from view.
- D. The following are specifically exempted from the provisions of this Section:
1. A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
 2. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

Section 4.12 Temporary Uses & Structures (including Special Events)

- A. A temporary zoning permit may be issued by the Administrative Officer for a period not to exceed 90 days from the effective date of permit, for a nonconforming use or structure which is incidental to a permitted use, provided that such permit requires as a condition the removal of the structure or use within 7 days after expiration of the permit. The permit for a temporary use or structure shall expire at the end of the 90 day period, or upon removal of the use or structure, whichever is earlier. Such permits are subject to all other requirements for issuance and appeal under Sections 6.01 and 6.04.
- B. A temporary structure shall meet all setback requirements for the district in which it is located, and all other applicable provisions of these regulations.
- C. Temporary construction trailers may remain on the construction site for the duration of the construction or for a maximum of 18 months, whichever is less.
- D. Special events. Special events may be allowed as accessory uses to an existing use, in accordance with the following:
1. A maximum of two special events in any calendar year, lasting a maximum of 2 consecutive days, with no more than 150 attendees, and associated with a single parcel of land, are exempt from this provision and shall not require a zoning permit. Events that

are for profit or for which a fee for admission is charged are not exempted under this subsection.

2. For more than two Special Events in a calendar year with an expected attendance of no more than 250 attendees for any single event, and not eligible under provision #1 above, conditional use approval must be obtained from the Development Review Board under Section 5.03 prior to the issuance of a use permit. In granting conditional use approval, the Board shall determine that:
 - (a) the proposed use complies with all applicable conditional use standards under subsection 5.03(c);
 - (b) consideration is given to the cumulative impacts of all activities associated with the event, including pre- and post-event truck deliveries, temporary structures, parking and traffic safety;
 - (c) provision is made for the safe disposal of all wastewater and solid waste in accordance with applicable municipal and state regulations;
 - (d) the number of events and the maximum number of attendees will not have an undue adverse impact on adjacent properties or the existing character of the surrounding area or neighborhood due to noise levels, lighting, traffic conditions or other off-site impacts that are uncharacteristic of the parcel, affected roads and surrounding area; and
3. Events that are subject to a Festival Permit issued by the Waitsfield Selectboard, in accordance with the Waitsfield Festival Ordinance, are explicitly exempted from the requirements of this Section and shall not require a zoning permit or conditional use approval.

ARTICLE V. DEVELOPMENT REVIEW

Section 5.01 Applicability of Development Review Standards

- A. **Conditional Use Review** standards shall apply to those uses designated as conditional uses in Article II, or as otherwise specified under Articles III (General Regulations) and IV (Specific Use Standards). Such uses are subject to conditional use review by the Development Review Board under Section 5.03.
- B. **Flood Hazard Area Review** standards shall apply to all new construction, the substantial improvement of existing buildings, and other allowed development as determined from the underlying zoning district which fall within the Flood Hazard Area Overlay District. Such development is subject to conditional use review under Section 5.3, including all subsections.
- C. **Planned Residential and Planned Unit Development (PRD, PUD)** standards shall apply to all major subdivisions, as defined under Article VII, which are located in the Agricultural-Residential and Commercial Lodging Districts, and all subdivisions located in the Industrial and Forest Reserve District; and may be applied to other subdivisions of land at the request of the applicant. Such subdivisions are subject to review by the Development Review Board under Section 5.04 and the *Waitsfield Subdivision Regulations* currently in effect.
- D. All **Subdivisions** are subject to review by the Development Review Board in accordance with the *Waitsfield Subdivision Regulations*.

Section 5.02 Application Requirements

- A. **Conditional Use Review.** An applicant for conditional use and/or flood hazard area review shall submit, in addition to zoning permit application requirements under Section 6.01, one original and three complete copies of a site development plan to include the following information, unless otherwise specifically waived by the Development Review Board:
 - 1. The names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan.
 - 2. The names and addresses of all adjoining property owners, as determined from the current Waitsfield Grand List.
 - 3. A project description, including parcel identification number(s); the proposed use or activity; total lot area, lot coverage and square footage; zoning district(s) in which the property is located; and the construction sequence and timing schedule for the completion of each phase of the development, including structures, infrastructure, parking areas, and landscaping and site reclamation.
 - 4. A site location map (1 inch to 1000 feet) showing the location of proposed development in relation to properties, surface waters and drainage, land uses, roads and utilities within the vicinity of the development; and
 - 5. A site plan (24" x 36"), drawn to scale, which shows the following:
 - a. the name of the project, north arrow, scale and application date;

-
- b. the name, address, and license or certification information of the preparer;
 - c. existing and proposed property boundaries, rights-of-way, and easements;
 - d. zoning district boundaries;
 - e. existing site features, including contours, elevations, and prominent topographic features; surface waters, wetlands and associated buffers; land use and vegetative cover, including large trees; designated floodplain and source protection areas; critical habitat areas, and historic sites;
 - f. cross-sections or profiles for roads, extraction, cut and fill areas, and for areas of steep slope (15% or more) to be developed;
 - g. existing and proposed structures, including building footprints and elevations, walls and fence lines, utilities, roads, driveways, pedestrian paths, parking and loading areas;
 - h. existing and proposed traffic and pedestrian circulation patterns, including access to or proposed connections with adjoining properties, public roads and public waters, and paths or trails;
 - i. water supply and wastewater disposal design details; and
 - j. proposed site grading, drainage, landscaping, screening, signage, waste receptacles and/or lighting details.
6. Any additional information or studies as required by the Development Review Board to determine project conformance with the provisions of these regulations. Such studies shall be funded by the applicant, and be performed by a qualified professional selected jointly by the applicant and Board.
 7. The Development Review Board may waive one or more of the required submission materials in the event they determine that the information is not necessary for a thorough review of the application due to existing site conditions and/or the limited scale and/or intensity of the project.
 8. For development in the **flood hazard overlay district**, the application shall also include on the site plan, or in associated attachments:
 - a. base flood elevation data;
 - b. the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
 - c. the elevations, in relation to mean sea level, of streets, water supply and sanitary facilities;
 - d. the elevation, in relation to mean sea level, to which buildings will be floodproofed;
 - e. a description of proposed floodproofing measures, and certification from a registered professional engineer or architect that the floodproofed structure meets all applicable floodproofing criteria under subsection F;
 - f. a typical cross-section showing the stream channel, elevation of adjoining lands, and areas to be occupied by the proposed development;
 - g. a profile showing the slope of the bottom of the channel or flow line of the stream;
 - h. a description of the extent to which any watercourse will be altered; and
 - i. a report prepared for submission to the Vermont Department of Environmental Conservation in accordance with state agency referral requirements under Section 6.01.

-
- B. **Planned Residential and Planned Unit Developments (PRDs and PUDs).** Applications for PRD or PUD approval shall be submitted simultaneously with applications for major subdivision review in accordance with the requirements set forth in the *Waitsfield Subdivision Regulations*. In addition to the information required for subdivision review described in those regulations, applications for PRDs and/or PUDs must include the following:
1. A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces; and
 2. A brief summary of the project and how it meets the standards in this section.
 3. Additional information required by the Development Review Board to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in these regulations.
- C. The application shall not be considered complete until all required forms, information and associated fees have been submitted. The Development Review Board may waive one or more application requirements upon determination that the information is unnecessary for the comprehensive review of the application. Such waiver shall be made at the time the application is accepted and deemed complete.

Section 5.03 Conditional Use Review

- A. **Applicability.** No zoning permit shall be issued by the Administrative Officer for any use or structure which requires conditional use approval until the Development Review Board grants such approval in accordance with the Act [§4414(3)], and the following standards and procedures.
- B. **Review Process.** Upon determination that the application as submitted is complete, the Development Review Board shall schedule a public hearing, warned in accordance with Section 6.07. The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review within 45 days of the date of the final public hearing; and shall issue a written decision. The written decision shall include a statement of the factual bases on which the Board made its conclusions, a statement of those conclusions, any conditions, and shall specify the period of time within which the decision may be appealed to the Environmental Court. Failure to act within the 45 day period shall be deemed approval.
- C. **General Standards.** Conditional use approval shall be granted by the Development Review Board upon finding that the proposed development will not result in an undue adverse impact on any of the following:
1. **The capacity of existing or planned community services or facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available or planned capacity of such services and facilities. Available capacity may be determined in part through consultation with other municipal and/or state officials having jurisdiction over affected services and facilities. Conditions may be imposed as appropriate to ensure that the demand for community facilities or services does not exceed existing or anticipated available capacity.

-
2. **The character of the area affected.** The Board shall consider the location, scale, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be affected. The character of the area shall be determined by the Board based on the Waitsfield Town Plan, applicable zoning district purposes and standards, and submitted materials and testimony. Conditions may be imposed as appropriate to ensure project compatibility with the character of the area affected.
 3. **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety, and function of roads and associated infrastructure (e.g., bridges, culverts) potentially affected the proposed development.
 - a. A traffic impact study may be required, particularly for uses which propose direct access onto Route 100 or Route 17, or which generate in excess of 100 trips per day. A traffic impact study shall include the following, unless specifically waived by the Development Review Board:
 - i. the identification of all roads and intersections potentially affected by the project;
 - ii. a statement of existing and projected traffic conditions for a minimum of a 5 year period;
 - iii. a comparison of operating levels of service for affected roads and intersections with and without the proposed project, as of its opening date, and projected for a five year period; and
 - iv. identification of any adverse traffic, road or intersection impacts, and a description of the improvements needed to provide an acceptable level of service.
 - b. Conditions may be imposed as appropriate to ensure that the condition, capacity, safety and function of roads and associated infrastructure are adequately maintained over the long-term. For uses that will cause the level of service to go below “C” for the identified design hour, or will contribute to an existing level of service “D” or “F”, the Development Review Board may require off-site road or intersection modifications as appropriate for the area or district (e.g., the installation of frontage roads, turning lanes, or signals as warranted) as a condition of approval.
 4. **Bylaws in effect.** The Board shall consider whether the proposed development complies with all bylaws in effect at the time of application, including other applicable provisions of this bylaw, other municipal permit and/or approval conditions (e.g., subdivision, highway access) and is consistent with applicable goals, policies and objectives of the *Waitsfield Town Plan*. Conditions may be imposed or incorporated as appropriate to ensure compliance with other municipal bylaws and ordinances in effect.
 5. **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Conditions may be imposed as appropriate to ensure long-term access, use and availability of such resources.

D. **Specific Standards.** In addition to the General Standards set forth above, the Development Review Board shall consider whether the following standards are applicable to the application

due to site conditions and/or the scale and intensity of the proposed use. Where one or more of the following standards are determined to be applicable, the Board may impose specific conditions or require project modifications to ensure the following:

1. **Protection of Natural Resources.** The land to be developed will be able to support the intended use without undue adverse impacts to significant natural features (e.g. wetlands, wildlife habitat, steep slopes, groundwater, headwater streams), as determined from the *Waitsfield Town Plan*, and/or through site analysis. An environmental assessment may be required to determine potential adverse impacts and associated mitigation measures. Conditions may be imposed as appropriate with regard to minimum lot size, the density and siting of development on the parcel, and on-site or off-site mitigation measures to avoid or minimize any adverse impacts to significant natural features. In the Irasville Village District, projects may be approved subject to area-wide mitigation programs encompassing multiple parcels which have been prepared to address one or more natural feature located on the site.

2. **Design and Location of Structures.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and standards under Article II. A design or visual impact analysis may be required to identify potential adverse impacts and appropriate mitigation measures. Specific standards shall apply to the following districts:
 - a. In the **Village Residential and Village Business Districts**, development shall reinforce a traditional, compact village development pattern characterized by pedestrian scale and orientation, traditional densities and setbacks, a well defined streetscape, sidewalks to facilitate pedestrian circulation, and a well-defined edge to the built environment. While building design is not required to reflect any one architectural style or era, the following standards apply to new and expanded structures subject to conditional use approval:
 - i. Building design shall be compatible with historic buildings identified as those structures listed on the *Vermont Historic Sites and Structures Register* and located within Waitsfield Village.
 - ii. The exterior design of buildings, including the arrangement, orientation, texture and materials, shall be compatible and harmonious with surrounding historic structures. Buildings should be oriented toward, and relate both functionally and visually, to public streets and/or common greens, parks or plazas. The Board may impose a maximum setback to achieve a consistent streetscape.
 - iii. The scale and massing of buildings, including height, width, street frontage, roof type and facade openings, shall be compatible and harmonious with surrounding historic structures. Consideration shall be given to buildings serving special civic, social or cultural functions, including places of worship, that may be designed to serve as prominent focal points within the Village.
 - iv. Conformance with the standards set forth in Table 2.09. Historic Waitsfield Village Overlay District, if applicable.

 - b. In the **Irasville Village District**, development should be designed to establish a defined streetscape, characterized by an interconnected network of streets bounded by a combination of sidewalks, street trees and consistent building setbacks, as opposed to large-scale buildings surrounded by expansive parking

areas. Buildings shall be a minimum of two stories and should reflect a diversity of building scale and massing. Excessively large, monolithic buildings should be avoided, or the scale and massing reduced through varied roof lines and interruption to the building elevation (facades) to create attached, but separate, masses.

- c. In the **Agricultural-Residential and Commercial Lodging Districts** particular consideration shall be given to locating structures off of open farmland or at the periphery of open farmland, and where possible, taking advantage of existing slopes and vegetation to provide a backdrop and screening for the project.
- d. Along **Route 100 and other scenic roads**, as identified in Section 3.10, particular consideration shall be given to the compatibility of the proposed development with existing and approved structures and uses, and the scenic characteristics of the road. Buildings shall be blended into, and visually compatible with, the surrounding area by appropriate landscaping and the use of topographic features, or may be required to be screened from view. Parking and loading areas should be located behind buildings or otherwise screened from the road. Conditions may be imposed as appropriate with regard to development siting (building footprints and/or envelopes), density, setbacks, scale, height, bulk, massing, materials, and screening to ensure compatibility with uses and structures adjoining or within the vicinity of the project.

3. **Traffic and Pedestrian Circulation.** A coordinated, safe and efficient system for vehicular and pedestrian circulation shall be provided on and off-site in accordance with all applicable municipal and state standards. A traffic and/or pedestrian circulation study may be required.

- a. Particular consideration shall be given to the number and location of accesses or curb cuts, visibility at intersections, to traffic flow and control, to pedestrian convenience and safety, and to access in case of emergency.
- b. For development located along **Route 100** in the **Irasville Village, Commercial Lodging, Limited Business and Industrial Districts**, particular consideration shall be given to limiting access onto Route 100 in accordance with Section 3.2. Within the Industrial District, access to Route 100 from the site is only permitted from town highways.
- c. Conditions may be imposed as appropriate with regard to intersections, pedestrian paths and crossings, and the number, location and size of accesses, including the reduction, consolidation or elimination of noncomplying curbcuts, the limiting of access to side or secondary roads, and/or provisions for shared access with adjoining parcels or uses on the same parcel, in accordance with Section 3.02.

4. **Parking, Transit & Service Areas.** Off-street parking and service areas will be provided in accordance with the requirements of Section 3.9. A parking assessment may be required.

- a. Particular consideration shall be given to the effect of noise, glare, odors, on adjoining properties; the adequacy of proposed landscaping, screening, and

-
- stormwater management, and provisions for service areas, refuse and snow removal.
- b. Off-street parking areas may be required to be landscaped or screened from adjacent uses and scenic roads, including Route 100. For uses located along Route 100 parking should be located behind buildings or otherwise screened from view.
 - c. Multi-family and nonresidential parking and service areas shall prohibited within front yard setback areas, unless otherwise approved by the Development Review Board in relation to existing site limitations.
 - d. Permeable surfaces shall be encouraged for proposed parking areas to limit stormwater runoff.
 - e. Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
 - f. Transit facilities (e.g., bus shelters) shall be provided as appropriate for development to be served by existing or proposed transit routes.
 - g. Conditions may be imposed as appropriate with regard to the extent, siting, landscaping, screening, paving, curbing and/or the sharing of parking and service areas between adjoining parcels or for uses on the same parcel.
5. **Stormwater Management.** Stormwater runoff shall not result in adverse impacts to neighboring properties, town roads, or water quality in nearby surface waters. A stormwater management and/or erosion control plan, prepared by a licenced engineer, may be required as appropriate and incorporated as a condition to approval. Such plan shall be prepared in accordance with Best Management Practices (BMPs) for managing stormwater and controlling erosion, as defined by the Vermont Agency of Natural Resources.
6. **Lighting.** Lighting associated with proposed development will be the minimum required for safety and security, will avoid glare and sky glow, and will not result in an undue adverse affect on neighboring properties and uses or the quality of the night sky. A lighting plan may be required.
- a. Exterior incandescent lighting shall be limited to cut-off fixtures designed and maintained so that the angle of emitted light is not greater than 75E from the vertical.
 - b. Halide or arc-type fixtures shall be used for down lighting only and shall be screened so that no direct light is visible from adjacent properties.
 - c. Conditions may be imposed as appropriate with regard to the type, height, layout and mounting of exterior lighting fixtures.
7. **Landscaping & Screening.** Proposed landscaping and screening shall achieve maximum project compatibility and protection to adjacent properties. A landscaping plan may be required.

-
- a. Landscaping, which shall include shade and street trees, shrubs, planting beds, buffers, and ground covers), is required to be installed and maintained in front and side yards, and may be required in rear yards where rear yards abut residential properties or public rights-of-way. Landscaping plans for properties fronting upon Route 100 in the Village Residential, Village Business or Irasville Village District shall be compatible with the *Waitsfield Village/Irasville Street Tree Master Plan*.
 - b. Particular consideration shall be given to the preservation of existing vegetation and important features of the site (e.g., large trees, scenic views, fences, walls, and shrubs), the visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal, soil, and light conditions.
 - c. Screening, which may consist of vegetative material, wood, brick or stone, may be required to reduce glare and achieve compatibility with the project setting or adjoining properties, and shall be of sufficient height and density so as to effectively screen an area within 2 years of construction. Vegetative screening should consist of a diversity of plant materials to create a naturalized appearance.
 - d. Specific conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials. A minimum of 3% of the total project cost may be required to be expended on landscaping, and/or a 3-year bond or other surety to ensure installation and maintenance also may be required as appropriate and incorporated as a condition of approval.
8. **Water & Wastewater Systems.** All applicable municipal and state regulations pertaining to water and wastewater disposal systems shall be met.
- a. Site testing (e.g., soil tests, borings) and system designs prepared by a qualified professional (i.e., a professional engineer or certified site technician) may be required.
 - b. Conditions may be imposed as appropriate with regard to system siting, performance and maintenance. Professional certification of system installation also may be required as a condition of approval.
9. **Performance Standards.** The following standards shall apply to all new development, including the alteration, conversion, expansion or relocation of existing uses, structures and/or associated operations on a parcel. Pre-existing uses and operations in lawful existence as of the effective date of these regulations which exceed these standards shall be considered exempt until such time as they are discontinued or altered. The Board may require an assessment under one or more of the following performance standards of the potential impact to properties and uses within the vicinity of the project to ensure that the proposed use will operate in conformance with the following standards.
- a. **Fire & Explosion.** All activities involving the use and/or storage of flammable and explosive materials shall be equipped with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment and devices which are standard for such industry or activity. Burning of waste materials in open fires is prohibited. Relevant provisions of state and federal law also shall apply.

b. **Vibration.** No vibration shall be produced through the ground which could have an undue adverse impact on adjacent landowners.

c. **Noise.** No noise which is excessive at the property line or any point beyond the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted. The maximum sound pressure (decibel) level generated by any use, operation, or facility shall not exceed the values

Frequency Band (Cycles per second)	Decibel Level
32	67
63	65
125	60
250	53
500	48
1,000	42
2,000	36
4,000	31
8,000	25

prescribed in Table 5.01 for a noise emitted from a facility or operation within the district, as measured from the lot line. If the noise is not smooth and continuous, and/or is not emitted between the hours of 7 p.m. and 7 a.m., one or more of the corrections in Table 5.02 shall be applied to the decibel levels given in Table 5.01. Specifically exempted from these noise standards are:

Noise is of an impulsive nature (e.g., hammering)	-5
Noise is of a periodic or pure tone in nature (e.g., hum, screech)	-5
Noise source operates between 7:00 P.M. and 7:00 A.M.	-10

- transportation vehicles not used in the ordinary operation of a use or business or not under the control of the property owner, tenant or lessor;
- occasionally used safety signals, warning devices, and emergency relief valves; and
- temporary construction and property and lawn maintenance activities between 7:00 a.m. and 7:00 p.m.

d. **Odor.** No noticeable odors shall be discharged which are offensive and uncharacteristic of the area, or which will result in an undue adverse impact on the use of any public or private property or facility.

e. **Emissions & Air Pollution.** No emissions shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property. All uses and development shall operate in compliance with the *Vermont Air Pollution Control Regulations*, as amended. The Board may require documentation to this effect prior to granting conditional use approval.

-
- f. **Heat.** For the purposes of these regulations, heat is defined as any thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause temperature increase perceptible to humans on any adjacent property whether such change be in air, ground or water temperature, or in the temperature of any structure adjoining the property.
- g. **Direct Glare.** Direct glare is defined for purposes of these regulations as illumination beyond property boundaries caused by direct or arc lighting, or other source of light. No such direct glare shall be permitted with the exception that parking areas and walkways may be illuminated by luminaries with cutoff, hooded or otherwise shielded fixtures such that the maximum angle of the cone of direct illumination shall be 80 degrees, or for fixtures less than 4 feet in height, 90 degrees, as drawn perpendicular to the ground. Such luminaries shall be placed no more than 16 feet above ground level and the maximum illumination at ground level shall not exceed 3 foot-candles. In reviewing proposed uses the Development Review Board may require a lighting plan.
- h. **Indirect Glare.** Indirect glare for the purposes of these regulations is defined as illumination beyond property lines caused by diffuse reflection from a surface such as water, a wall, a window or the roof of a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed a maximum of 0.3 foot-candles, and an average of 0.1 foot candles. Deliberately induced sky-reflected glare (e.g., casting a beam upward for advertising purposes) is specifically prohibited.
- i. **Liquid & Solid Wastes.** No discharge of liquid or solid wastes or other materials of such nature or temperature as can contaminate surface or groundwater, or otherwise cause the release of dangerous or offensive elements, shall be permitted at any point into any sewage disposal system, watercourse or lake, or into the ground, except in accordance with all applicable municipal, state and federal regulations.
10. **Utilities.** Electrical, telephone and other lines or cables shall be sited to avoid or minimize environmental and visual impacts. In the siting of utility transmission and distribution lines, particular consideration shall be given to the sharing of corridors and rights-of-way, and/or the burial of utility service lines where feasible to minimize associated environmental and visual impacts. In addition:
- a. In the **Agricultural-Residential** and **Commercial Lodging Districts** utility lines, to the extent feasible, shall be sited to follow existing linear features (e.g., tree lines, access roads) and to avoid the physical and visual fragmentation of agricultural land and open space.
- b. Along **Route 100 and other scenic roads** designated in Section 3.10, utility lines shall be screened from the road; the Development Review Board may require that lines be buried.
- c. Conditions may be imposed as appropriate with regard to the location of utility corridors and lines to avoid or minimize an adverse environmental or visual impacts.

F. **Flood Hazard Area Development Standards.** For development within the flood hazard area overlay district which is identified as a permitted use in the underlying district in which it is located, only the following standards shall apply under conditional use review. For conditional uses in the underlying district, in addition to applicable general and specific standards above, the following standards also shall apply:

1. In reviewing applications for development within the Flood Hazard Area Overlay District, the Development Review Board shall consider the following:
 - a. the danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b. the danger that materials may be swept onto other lands downstream or to the injury of others;
 - c. the ability of proposed water supply and sanitization systems to prevent disease, contamination and unsanitary conditions under conditions of flooding;
 - d. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on individual owners or residents;
 - e. the importance of the services provided by the proposed facility to the community;
 - f. the necessity to the facility of a waterfront location;
 - g. the availability of alternative locations not subject to flooding for the proposed use;
 - h. the safety of vehicular and emergency access to the property in times of flood;
 - i. the expected heights, velocity, duration, rate of rise, and sediment transport of flood waters expected at the site;
 - j. the costs of providing governmental and public facilities and services during and after a flood event;
 - k. other such factors as are relevant to the purpose of these regulations.
2. Development within floodways is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are specifically prohibited within the floodway.
3. All development shall be designed to (a) minimize flood damage to the proposed development and to public facilities and utilities; and (b) to provide adequate drainage to reduce exposure to flood hazards.
4. Structures shall be (a) designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damage, and (d) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

-
6. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
 7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 8. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
 9. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
 10. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 8.
 11. Existing buildings to be substantially improved for nonresidential purposes shall either (a) meet the requirements of subsection 8, or (b) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered 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.
 12. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 13. Recreational Vehicles placed on sites within Zones A1-A30, AH and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).

Section 5.04 Planned Residential & Planned Unit Development (PRD/PUD) Review

- A. **Purpose.** In accordance with the Act [§4417], the following two categories of Planned Unit Developments are established under these regulations: Planned Residential Developments (PRDs) and Planned Unit Developments (PUDs). Both PRDs and PUDs allow for the modification of district standards subject to Development Review Board review, are required for major subdivisions in designated zoning districts, and are encouraged for other subdivisions in all districts as allowed. The purpose of PRD/PUD review is to:

-
1. encourage new communities, innovation in design and layout and more efficient use of land;
 2. facilitate the adequate and economic provision of streets and utilities;
 3. preserve the natural and scenic qualities of open land;
 4. provide for open common land for open space and recreation;
 5. maintain the town's agricultural resources and wildlife habitat; and
 6. provide for the development of existing lots which, because of physical, topographical, or geological conditions, could not otherwise be developed; and/or to
 7. provide for affordable housing.

B. Coordination with Subdivision Review. A PRD or PUD shall be reviewed by the Development Review Board as a subdivision under the Waitsfield Subdivision Regulations:

1. PRD/PUD review shall occur concurrently with subdivision review, the procedures for which are set forth in the subdivision regulations.
2. An application for PRD approval shall include the materials described under Section 5.02.
3. PRD/PUD approval shall be granted in association with subdivision plat approval. Modifications of this zoning bylaw approved by the Development Review Board shall be noted in writing and appended to the plat.
4. All other provisions of these regulations not specifically modified shall remain in effect and be applicable to the project. Approval granted by the Development Review Board under this Section for a PRD/PUD involving the development of one or more uses subject to conditional use review shall not exempt the proposed development from subsequent review in accordance with Section 5.03. The Development Review Board may at its discretion review the application under this section concurrently with conditional use review under section 5.03.

C. General Standards (for PRDs & PUDs). The modification of zoning bylaw requirements by the Planning Commission may be allowed simultaneously with the approval of a subdivision plat, in accordance with the following standards:

1. The minimum project area shall be the minimum lot size for the district within which it is located. The development site shall be a contiguous parcel of land. Separation by a public road does not result in a noncontiguous parcel.
2. The PRD/PUD shall be consistent with the Waitsfield Town Plan, meet all applicable standards set forth in the current Waitsfield Subdivision Regulations, and be consistent with all other applicable municipal regulations and ordinances currently in effect. The PRD/PUD shall also meet all local and state regulations for sewage disposal and the protection of water quality.

-
3. The PRD/PUD shall represent an effective and unified treatment of the development possibilities of the project site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland, stream bank, and floodplain areas; significant topographic features including prominent hilltops and ridgelines and areas of steep slope; soils unsuitable for development; open space and scenic views; significant resource lands including agricultural and forest land; and unique natural or manmade features, including critical wildlife habitat and lands and buildings of historical significance.
 4. Unless otherwise provided, uses shall be limited to those permitted and conditional uses allowed within the district in which the PRD/PUD is proposed.
 5. Maximum overall density shall be determined based on maximum density requirements for the district within which the property is located, except for allowed density bonuses which are subject to Development Review Board approval. Land with a slope of 25% or more, and the area occupied within public or private road rights-of-way shall not be included in the calculation of density. The Development Review Board may otherwise reduce the allowed overall density if steepness of slope, ledges, low or wet areas, or other physical features limit the site's ability to support development.
 6. The total allowable number of dwelling units within a PRD or PUD shall equal the number which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with these regulations. In accordance with the Act, however, the total number of allowed units may be increased, subject to Development Review Board approval, by up to:
 - a. 25% for PRDs, as an incentive for clustered rather than dispersed development which protects open space, agricultural land or other critical resource lands, as identified in the Waitsfield Town Plan, and/or through site analysis; or
 - b. 50% for PRDs or PUDs as an incentive for affordable housing development in which at least 50% of the units are affordable housing units as defined under Article VII.

In granting density increases, the Development Review Board shall give due consideration to site conditions that may limit development, the capacities of community services and facilities, and the character of the area affected.

7. The Development Review Board may allow for a greater concentration or intensity of development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PRD is located, provided that there is an offset by a lesser concentration in other sections, including an appropriate reservation of open space on the remaining land.
8. District regulations for height and spacing between structures for all uses shall be met unless specifically modified by the Development Review Board.
9. Uses shall be sited and arranged for compatibility with their setting and context, and to ensure visual and auditory privacy for residents of the project. To ensure adequate privacy for existing or proposed uses within or adjacent to the project, increased building setbacks and/or perimeter screening may be required.

-
10. Water supply and sewage disposal facilities shall meet all applicable municipal and state regulations.
 11. If a PRD/PUD results in common facilities, infrastructure and/or lands intended for parks, recreation, open space, or other community purposes, the Development Review Board, as a condition of approval, may establish conditions on the ownership, use and maintenance of such facilities and lands as it deems necessary to assure their continued availability and long-term management, in accordance with Waitsfield Subdivision Regulations. This may include a requirement that common facilities or land which are not dedicated to or accepted by the municipality be maintained by a homeowners association or similar organization whose rules and regulations are approved by the Planning Commission.
 12. In the Agricultural-Residential, Commercial-Lodging and Forest Reserve Districts, a minimum of 60% of the total project site shall be set aside as open space. Where a PRD/PUD involves land currently in agricultural or forestry use, or has the potential for agricultural or forestry use due to the presence of primary agricultural or forestry soils, the development should make provisions for the use of such land for agricultural or forestry purposes.

D. Standards Specific to PRDs.

1. A PRD shall include only residential uses and associated accessory structures and uses allowed within the district in which the PRD is located. The dwelling units permitted may, at the discretion of the Development Review Board, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached. Associated uses may include, but not be limited to home occupations, child care and recreational facilities.
2. No multi-family dwelling unit greater than 7500 square feet shall be permitted except in the Commercial Lodging District, or as allowed for the adaptive reuse of historic barns in the Agricultural-Residential District. Attached or multi-family dwellings meeting this standard may be developed with PRD approval.
3. The minimum front, side and rear yard setbacks at the periphery of the PRD shall be as dictated for the particular district unless otherwise specified by the Development Review Board. The Development Review Board may consider within the project area other setback standards, such as zero lot lines, as part of subdivision review.
4. In addition to standards under subdivision review, the Development Review Board may impose further restrictions on the height and spacing of buildings; and greater setback and screening requirements for structures, parking areas and other development along the perimeter of the project, and between built and open space areas.
5. Provision shall be made for the preservation of open space. The location, size, shape, ownership, use and long-term management of land set aside to be preserved for open space shall be approved by the Development Review Board in accordance with the Waitsfield Subdivision Regulations.
6. Where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PRD with a total density based on the combined allowable density of each district.

-
7. Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PRD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the Planning Commission's judgement, if the land were subdivided into lots in conformance with district regulations.

E. Standards Specific to PUDs.

1. PUDs located within the Irasville Village District shall be designed to establish well defined streetscapes, characterized by an interconnected network of streets bounded by a combination of sidewalks, street trees and consistent building setbacks, as opposed to large-scale buildings surrounded by expansive parking areas.
2. Provision shall be made for year-round pedestrian circulation within the site, and for pedestrian access to adjacent properties. Pedestrian circulation should include a network of pathways and sidewalks connecting existing land uses in and adjacent to the site.
3. Buildings shall front towards and relate to streets, entrance drives and public spaces (e.g. greens, parks, plazas), both functionally and visually, and not be oriented toward parking lots. Buildings shall reflect a diversity of building scale and massing. Excessively large, monolithic buildings shall be avoided, or the scale and massing reduced through varied roof lines and interruption to the building elevation (facades) to create attached, but separate, masses.

ARTICLE VI. ADMINISTRATION & ENFORCEMENT

Section 6.01 Zoning Permits

- A. **Applicability.** Unless specifically exempted from these regulations under Section 6.2, no land development as defined herein may commence without a zoning permit issued by the Administrative Officer. Nothing in this bylaw shall be construed as limiting or interfering with an individual's right to repair, improve or alter a structure, provided that such improvement or alteration does not increase the exterior dimensions of the structure. Structural alterations associated with a change of use shall require a zoning permit.
- B. **Application Requirements.** An application for a zoning permit shall be made by the property owner, contract vendee with the written consent of the property owner, or their legal agent on a form provided by the town and certified as correct by the applicant. The application form shall be submitted to the Administrative Officer, along with required application fees. In addition, the following are required as applicable:
1. **Permitted Uses.** An application for a permitted use shall include a statement of the existing and proposed use of land and structures, and be accompanied by a sketch plan, which shows information in sufficient detail to determine whether the proposal is in conformance with these regulations.
 2. **Conditional Use, Planned Residential & Planned Unit Development or Flood Hazard Area Review.** An application for development that requires approval under conditional use, planned residential or planned unit development, or flood hazard area review prior to the issuance of a zoning permit shall include, in addition to the application information under Subsection B1, a site development plan prepared in accordance with Section 5.02.
 3. **Access Approval.** An application for development that requires access (curb cut) approval from the Waitsfield Selectboard shall include an application for access to a town highway.
 4. **Development Subject to State Agency Referral.** Applications for development within the Flood Hazard Overlay District shall be referred to the Floodplain Management Section of the Vermont Department of Environmental Conservation for review. No zoning permit shall be issued until a response has been received from the Department, or the expiration of 30 days following the submission of the application.
- C. **Issuance of Permits.** In accordance with the Act [§§ 4448, 4449], the Administrative Officer shall act, within 30 days of the date of receipt of application materials and fees, to either issue a zoning permit, refer the applicant to the appropriate body having jurisdiction, or deny a zoning permit application. If the administrative officer fails to act with regard to an application for a permit within 30 days, the permit shall be deemed issued on the 31st day. A zoning permit shall be issued by the administrative officer only in accordance with the Act and these regulations:
1. No zoning permit shall be issued by the Administrative Officer until required approvals from the Planning Commission, Development Review Board and/or Selectboard, and associated fees, have been received. The application for a zoning permit shall not be deemed complete by the Administrative Office until all Development Review Board

and/or Development Review Board approvals required by these regulations have been obtained.

2. For development subject to state agency referral requirements as identified in subsection (B)(4), no zoning permit shall be issued until the expiration of 30 days following the submission of the application to the Department of Environmental Conservation, in accordance with the Act [§4424(D)].
 3. For development which requires the alteration or relocation of a watercourse within the Flood Hazard Area Overlay District, the Vermont Department of Environmental Conservation and adjacent municipalities shall be notified at least 15 days prior to the issuance of a zoning permit, and copies of such notification shall be sent to the Administrator of the Federal Insurance Administration.
 4. Development for which a prior permit or approval has been issued shall comply with all such permits or approvals. Documentation of compliance may be required prior to the issuance of a zoning permit. A zoning permit shall not be issued for development that is in violation of a previously issued permit or approval.
 5. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, the Zoning Administrator shall issue a zoning permit for development that is subject to the proposed amendment only in accordance with the requirements of the Act [§4449(d)].
 6. The Administrative Officer shall either issue or deny a permit in writing. In issuing a permit the Administrative Officer shall certify that the applicant has met the provisions of this bylaw. If the Administrative Officer determines that the proposal as set forth in the application is not in conformance with the provisions of these regulations, he or she shall deny the zoning permit and state specific grounds for denial. Pursuant to the Act, each permit or denial issued shall include a statement of the time in which appeals may be made under Section 6.4.
 7. Within 3 days of issuance, the Administrative Officer shall deliver a copy of the permit to the Listers, and post a copy of the permit in at least one public place until the expiration of 15 days from the date of issuance. Permits also shall be recorded in accordance with Section 6.07.
- D. **Effective Date.** No zoning permit shall take effect until the time for appeal under Section 6.04 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of said appeal.
- E. **Permit Display.** A zoning permit shall require posting of a notice of permit, on a form prescribed by the town, within view of the nearest public right-of-way until the time for appeal has expired.
- F. **Permit Expiration.** All development authorized by the zoning permit shall be substantially commenced (50% completed) within 2 years of the date of issuance, and substantially completed (90% completed or otherwise determined to be suitable for occupancy or use) within 4 years of the date of issuance, unless otherwise specified as a condition of approval. An extension of the zoning permit may be granted by the Administrative Officer upon application and a determination that no violations exist. In the event the project has not been substantially completed prior to the expiration of the permit (and related extension), the zoning permit and all associated approvals shall become null and void, and re-application for a new zoning permit shall be required.

Section 6.02 Exemptions

- A. No zoning permit shall be required for the following:
1. Modifications of building interiors if no change of use is proposed; repairs and minor alterations (including chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions or height of the structure.
 2. Maintenance of existing roads, driveways and infrastructure within their existing and/or approved configuration. This includes associated ditching, resurfacing, and/or relocation within existing or approved right-of-way or easement areas, and the placement or relocation of public utilities and infrastructure within such areas.
 3. Site work incidental to permitted development including clearing, 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 principal uses (contouring yards, establishing garden and landscape areas). Site work exempted under this provision shall not involve the transport or displacement of more than 100 cubic yards of fill or other materials (e.g., gravel, topsoil), and shall not involve filling or grading of land within the Flood Hazard Overlay District.
 4. Up to 4 structures accessory to a dwelling, such as a dog house, child's play house, shed or similar structure, for each of which the floor area does not exceed 100 square feet and the height does not exceed 10 feet, or in the case of tree-houses the floor area shall not exceed 100 square feet, provided that such accessory structures comply with all setback requirements for the district in which they are located.
 5. The construction, repair and maintenance of residential stone walls and fences, provided that they do not extend into or obstruct public rights-of-way, or interfere with corner visibility or sight distances for vehicular traffic.
 6. Garage sales, yard sales, auctions, or related activities not exceeding 3 consecutive days, nor more than 6 days in any calendar year, provided that such sales comply with the *Waitsfield Garage Sale Ordinance*.
 7. Accepted Agricultural Practices (AAPs) and Best Management Practices (BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however, pursuant to associated state rules as most recently amended:
 - a. Prior to the construction of farm structures, the farmer must notify the administrative officer in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure, including setbacks from adjoining property lines, road rights-of-way, and surface waters.
 - b. The proposed structure shall comply with all setback requirements for the district in which they are located unless, upon written petition, the Commissioner of Agriculture, Food and Markets has approved other setbacks for the specific farm structure being constructed or expanded. Such approval shall be attached to the notification filed with the Administrative Officer.
 - c. Violations of the AAPs or BMPs may be reported to the Commissioner of Agriculture, Food and Markets for enforcement action.

8. Forest management activities performed in accordance with *Acceptable Management practices for Maintaining Water Quality on Logging Jobs in Vermont*.
9. Public facilities, including power generation and transmission facilities, which are regulated by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the *Waitsfield Town Plan*.
10. Clearing and associated site improvements for recreation trails, provided such trails are not surfaced with impervious materials and are not used as part of a commercial facility.

Section 6.03 Certificate of Occupancy

- A. In accordance with the Act [§4449], a certificate of occupancy issued by the Administrative Officer shall be required prior to the use or occupancy of any permitted structure or part thereof constructed after the effective date of this bylaw.
- B. An application for a certificate of occupancy shall be provided with the zoning permit issued by the Administrative Officer, or upon request. The applicant shall submit the application and associated fee upon the completion of permitted improvements, but prior to the occupancy or use of the structure.
- C. Within 14 business days of the date of receipt of a complete application and associated fees for a certificate of occupancy, the Administrative Officer will inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 14 days of the submission of a complete application, the certificate shall be deemed issued on the 15th day.
- D. The Administrative Officer may issue a temporary Certificate of Occupancy for a structure that is substantially complete (suitable for occupancy or its intended use), for a period not to exceed 6 months from the date of issuance. The temporary certificate shall specify the remaining improvements to be completed in accordance with permit requirements prior to the issuance of a permanent certificate of occupancy.

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

- A person or municipality owning property or interest in property affected by imposed regulations (e.g., the applicant);
- The Town of Waitsfield or an adjoining municipality;
- 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 regulations of the town
- Any 10 persons owning real property within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the plan or regulations of the municipality; and
- Any department or administrative subdivision of the state owning property or any interest therein within the town or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Section 6.04 Appeals

- A. **Decisions of the Administrative Officer.** In accordance with the Act [§4465], the applicant or any other interested person may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the 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. Pursuant to the Act [§4468], the Development Review Board shall hold a public hearing on a notice of appeal within 60 days of the date of its filing. The Board shall give public notice of the hearing under Section 6.7(D), and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
 2. A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion, pursuant to the Act [§4468]. The Development Review Board may reject an appeal without hearing, and render a decision, which shall include written 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. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Administrative Officer and Town Clerk.
- B. **Notice of Appeal of Administrative Officer Decisions.** Pursuant to the Act [§4466], a notice of appeal of an action of the Administrative Officer shall be in writing and include:
- the name and address of the appellant;
 - a brief description of the property with respect to which the appeal is taken;
 - a reference to applicable bylaw provisions;
 - the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations;
 - the alleged grounds why such relief is believed proper under the circumstances; and
 - any request for a stay of enforcement which may be granted or denied by the board of adjustment in accordance with the Act [§4466].
- C. **Decisions of the Development Review Board.** Any interested person who has participated in a regulatory proceeding under these bylaws may appeal a decision of the Development Review Board within 30 days of the date of such decision to the Vermont Environmental Court, in accordance with the Act [§4471]. For the purposes of these regulations, participation in a regulatory proceeding shall include offering, through oral or written testimony, evidence or a statement of concern related to the subject of the hearing.
- D. **Notice of Appeal of the Development Review Board Decisions.** The notice of appeal of a decision of the Development Review Board shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Administrative Officer 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 6.05 Variances and Setback Waivers

- A. The Development Review Board shall hear and decide upon requests for variances pursuant to the Act [§4469] and appeal procedures under Section 6.04. 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 regulations 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. In addition to the requirements under Subsection (A), variances for development within the Flood Hazard Overlay District shall be granted by the Development Review Board only:
1. in accordance with the Act and the criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood Insurance Program regulations;
 2. upon determination that during the base flood discharge, the variance will not result in increased flood levels;
 3. upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- C. On an appeal for a variance from the provisions of these regulations 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(b)] are found in the affirmative and specified in its decision.
- D. In granting a variance, the Development Review Board may attach such conditions as it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect.

-
- E. **Setback Waivers.** Notwithstanding the minimum setback standards for front yards (setback from road centerline) and side and rear yards (setback from parcel boundaries) for various zoning districts set forth in Article II, the Development Review Board may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 5.3 and subject to the following:
1. The parcel associated with the waiver request was legally in existence prior to January 1st 2009;
 2. The Board may allow for a reduction of the front, side and rear setback, providing the reduction will not adversely impact the use and enjoyment of adjacent parcels, and the reduced setback complies with all conditional use standards set forth in Section 5.3; and
 3. The waiver of the setback standard is for an addition or expansion of an existing structure, is consistent with the predominant building setbacks within the surrounding area of the parcel, and does not result in a reduction of the setback standard for the district in which the parcel is located by greater than 30% (e.g., a 50 foot setback may be reduced in accordance with this provision by up to 15 feet).

Section 6.06 Violations & Enforcement

- A. **Violations.** The commencement or continuation of any land development which is not in conformance with the provisions of this bylaw shall constitute a violation. Except as provided in Section 3.11, all violations will be pursued in accordance with the Act [§§ 4451, 4452]. Each day that a violation continues shall constitute a separate offense. Any person violating any provision of this bylaw shall be subject to the fines and remedies set forth in the Act. All fines imposed and collected for violations shall be paid over to the municipality.
- B. **Notice of Violation.** Pursuant to the Act [§4451], no action may be brought under this section unless the alleged offender has had at least 7 days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, describe the violation, and explain that the alleged offender has an opportunity to cure the violation within the 7-day period and will not be entitled to an additional warning notice for a violation occurring after the 7-day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7-day notice period and within the next succeeding 12 months.
- C. **Enforcement.** In accordance with the Act [§§ 4451, 4452], the Administrative Officer shall institute in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. The town shall observe limitations on enforcement relating to municipal permits and approvals, as set forth in the Act [§4454].

Section 6.07 Municipal Administrative Requirements

- A. **Appointments.** The following appointments shall be made in association with the administration and enforcement of this bylaw as provided for in the Act:
1. **Administrative Officer.** In accordance with the Act [§4448], an administrative officer shall be appointed for a term of 3 years by the Selectboard, from nominations submitted by the Planning Commission. The Selectboard may also appoint, an Acting Administrative Officer who shall have the same duties and responsibilities as the Administrative Officer in his or her absence. An Administrative Officer may be removed for cause at any time by the Selectboard after consultation with the Planning Commission. The Administrative Officer:

-
- shall administer these regulations literally, and shall not have the power to permit any land development which is not in conformance with this bylaw;
 - shall provide forms and maintain records as required,
 - may recommend to applicants for municipal permits that they contact the state regional permit specialist in order to assure timely action on any related state permits.

2. **Development Review Board.** In accordance with the Act [§4460(b)], a Development Review Board consisting of not less than three (3) or more than nine (9) members shall be appointed by the Selectboard for 3 year terms. No member of the Planning Commission shall serve on the Development Review Board. Vacancies shall be filled by the Selectboard for unexpired terms and upon the expiration of such terms. The Selectboard also may appoint alternates to the Development Review Board for specified terms, to be assigned by the Selectboard to serve in the event that one or more members of the Board are disqualified or absent. Members of the Development Review Board may be removed for cause by the Selectboard upon written charges and after public hearing. The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct in accordance with the requirements of the Act [§4462] and Vermont's Open Meeting Law [1 V.S.A., §§310-314]. The Development Review Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and decide:

- a. applications for conditional use approval under Section 5.03;
- b. appeals from any decision, act or failure to act by the Administrative Officer under Section 6.04; and
- c. variance requests under Section 6.05.
- d. requests for access approval under Section 3.02; and
- e. applications for planned residential and planned unit developments under Section 5.04, in association with the review of subdivisions of land under the *Waitsfield Subdivision Regulations*.
- f. applications for subdivision review pursuant to the *Waitsfield Subdivision Regulations*.

3. **Planning Commission.** In accordance with the Act [§§ 4322, 4323], a planning commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Selectboard for 4 year terms; however no more than 3 commissioners shall be reappointed or replaced during any calendar year. Vacancies shall be filled by the Selectboard for the unexpired terms and upon the expiration of such terms. Any member may be removed at any time by unanimous vote of the select board. The Planning Commission shall elect a chairman and clerk, and adopt rules of procedure and rules of ethics with respect to conflicts of interest 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]. The Planning Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and, where appropriate, decide requests and petitions for bylaw amendments under Section 1.05;

B. **Fee Schedule.** The Selectboard shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering administrative costs. In accordance with the Act [§4461(c)], the fee schedule may include provisions which require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees

shall be posted in the Waitsfield Town Office, and may be altered or amended only by the Selectboard.

C. **Application Forms.** The planning commission is hereby authorized to prepare and revise application forms from time to time, in consultation with the administrative officer. In no case shall the introduction of a new or revised form have the effect of, or be construed as, amending these regulations. Application forms will be made available at the Waitsfield Town Office during regular business hours.

D. **Hearing Notice Requirements.**

1. In accordance with the Act [§4464(a)], a warned public hearing shall be required for conditional use review (Section 5.3), appeals and variances (Sections 6.4 & 6.5) and Planned Unit Development and Planned Residential Development review (Section 5.4). 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:
 - a. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town,
 - b. posting of the same information in three (3) or more public places within the municipality, including posting of a notice within view from the public right-of-way nearest to the property for which the application is being made; and
 - c. 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.
2. The applicant shall be responsible for providing proof of notification of adjoining property owners, as determined from the municipal grand list, with the application. Proof of notification shall include a list of current landowners and proof of mailing provided by the U.S. Postal Service or a signed notice of service certifying that the applicant or the applicant's agent has notified the adjoining landowners.
3. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board or Planning Commission 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 Environmental Court, the action shall be remanded to the Board or Commission to provide new posting and notice, hold a new hearing, and take a new action.
4. Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [§§ 4441, 4444].

E. **Recording Requirements.** The Administrative Officer shall keep on file and available to the public during regular business hours, a full and accurate record of all applications received, permits issued, plats approved, and notices of violation issued during his or her term of office.

1. Pursuant to the Act [§4449(c)], within 30 days after the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in

municipal land records as provided in 24 V.S.A. §1154(a). The applicant may be charged the cost of the recording fees as required by law.

2. For development within the Flood Hazard Area Overlay District, the Administrative Officer shall also maintain a record of:
 - a. all permits issued;
 - b. the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
 - c. the elevation, in relation to mean sea level, to which buildings have been floodproofed;
 - d. all floodproofing certifications required under these regulations; and
 - e. all variance actions, including justification for their issuance.

ARTICLE VII. DEFINITIONS

Section 7.01 Terms & Usage

- A. Except where specifically defined herein or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in these regulations shall have their usual, customary meanings.
- B. In the interpretation of words and terms used, defined, or further described herein, the following shall apply:
 - 1. the particular controls the general;
 - 2. the present tense includes the future tense;
 - 3. the word "shall" is mandatory; the word "may" is permissive; the term "generally shall" indicates that it is mandatory unless the Development Review Board or other applicable body deems otherwise in accordance with these regulations;
 - 4. the word "structure" includes "building;" and
 - 5. the word "lot" includes "parcel."
- C. For the purposes of flood hazard area regulation, National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided herein.
- D. Any interpretation of words, phrases or terms by the Administrative Officer may be appealed to the Development Review Board under Section 6.4. In such cases, the Board shall base its decision upon the following definitions, state statute, and the need for reasonable and effective implementation of these regulations. The Board shall publish and update from time to time such written interpretation, to ensure consistent and uniform application of the provisions of these regulations.

Section 7.02 Definitions

ACCEPTED AGRICULTURAL PRACTICES (AAPs): Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets.

ACCEPTED MANAGEMENT PRACTICES (AMPs): Accepted practices for silviculture (forestry) as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation.

ACCESSORY DWELLING: A separate, complete housekeeping unit that is contained within or attached to a single-family dwelling, or within an accessory building, in which the title is inseparable from the primary dwelling or use. An accessory dwelling may be a mobile home only with the approval of the Development Review Board pursuant to Section 5.3. Only one accessory apartment may be created within or attached to a single-family structure or in an accessory structure.

ACCESSORY USE OR STRUCTURE A use or structure which is incidental to and subordinate to the primary use of a lot or parcel of land and is located on the same lot.

ADAPTIVE REUSE: The rehabilitation or renovation of an existing historic barn for another allowed use as specified under in this bylaw (Section 4.2). See also **HISTORIC BARN**.

ADMINISTRATIVE OFFICER: The Zoning Administrator appointed in accordance with Section 6.7.

ADMINISTRATOR: The Federal Insurance Administrator.

AFFORDABLE HOUSING: Housing that is either (1) owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the state median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income; or (2) rented by its inhabitants whose gross annual household income does not exceed 65 percent of the state median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

AGRICULTURE: Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the premises; or as otherwise defined by the Secretary of the Agency of Agriculture, Food and Markets. Structures which are customarily accessory to agricultural uses and are located on the same parcel as an agricultural use, with the exception of residential dwellings, shall be included in this definition. (See also **ACCEPTED AGRICULTURAL PRACTICES**, farm structure.)

AIR LANDING STRIP: Any area of land or water designed and set aside for the take-off and landing of aircraft. See **AIRPORT**.

AIRPORT: A place where aircraft can land and takeoff, which may also include general aviation and commercial services, aircraft storage hangars, and administrative facilities. See **AIR LANDING STRIP**.

ALTERATION: Structural change, change of location, or addition to a building or structure, but excluding ordinary repairs to a building, or modification of building equipment.

APPENDAGE SIGN: A subsidiary sign attached to or hung from a principal sign.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designated as Zone A on the FHBM, or Zones A, AO, AH, A1-30, AE or A99 on the FIRM for the town.

ARTIST STUDIO: Work space for artists or artisans, including individuals engaged in the application, teaching or performance of one of the fine or applied arts or crafts. See **GALLERY**.

AUTO REPAIR SERVICE: Establishments primarily engaged in furnishing automotive repair services to the general public; and including as an accessory use limited automobile sales providing that not more than 8 automobiles are displayed for sale at any given time, or such other number as determined under conditional use review criteria.

BANK: An establishment providing a variety of financial services to the public, which may include drive-through facilities. For the purposes of these regulations this definition also includes savings and loans, and similar financial institutions (e.g., Credit Union).

BAR/TAVERN: An establishment used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption, where the sale of prepared food is secondary to the consumption of such beverages.

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

BASEMENT: Any area of the building having 3 sides or 60% of its walls subgraded (below ground level), whichever is less. See also **STORY**.

BED & BREAKFAST: A single-family dwelling occupied by the owner or operator, in which not more than eight (8) rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient guests. Individual cooking and eating facilities shall not be provided; breakfasts shall be the only meals served and shall be limited to overnight guests. Guest rooms may not occupy greater than 2 accessory structures.

BUFFER: Any space between adjoining land uses or between a land use and a natural feature, which is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

BUILDING: A walled and roofed structure.

BUILDING COVERAGE: The perimeter limit of any floor space, including porches, balconies or roof overhangs greater than 30 inches projected vertically on to the ground plane.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front line.

BUILDING HEIGHT: The height of a building or structure as measured vertically from the highest point on top of the building or structure (excluding any noted exemptions under Section 3.6), to the average (of the highest and lowest) finished grade at the foundation or base; and/or, where specified, the number of stories within a building, excluding a basement or attic.

BUILDING SUPPLY STORE: Lumberyards and/or building supply yard which offer goods utilized in construction or alteration or improvement of buildings.

CAMP: Land or structures thereon, such as cabins, camper-trailers, shelters or tents greater than 150 square feet and less than 1,000 square feet, occupied and/or used on a temporary basis for no more than 5 months per year. Such structures, consistent with their short-term occupancy, shall not be connected to public utility services.

CAMPER: Any vehicle used as temporary sleeping, camping or living quarters, which is mounted on wheels, a truck or a camper body, or towed by a motor vehicle. This definition includes recreation vehicles and travel trailers, but specifically excludes mobile homes (see **Mobile Home**).

CAR SALES: The use of any building, land area or other premise for the display and sale of new or used automobiles.

CEMETERY: Land used or dedicated to the burial of the dead, including as accessory structures mausoleums, columbariums, or maintenance facilities, but excluding crematoriums. An individual burial site on private land, registered with the Waitsfield Town Clerk in accordance with state law, is exempted from this definition.

CHANGE OF USE: The transfer of use of land or building from one category of use as listed in zoning district regulations or defined in this section, to another category of use.

CHILD CARE FACILITY: Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, which provides child care for periods of less than 24 hours, including family child care homes. See Section 4.3. See also HOME CHILD CARE.

COMMERCIAL WATER EXTRACTION: The extraction, collection, storage and transport of groundwater from one or more wells or springs by means of pipelines, channels, trucking or other similar mechanisms, for the bulk wholesale or retail sale of potable drinking water. Exempted from this definition will be water extraction and distribution systems designed to provide a primary water supply to no more than 10 off site dwelling units.

COMMON LAND: Land within a development or subdivision that is not individually owned or dedicated for public use, but which is designed to be held in common, for use, enjoyment, management and maintenance by the residents of the development or subdivision. Such land may include but not be limited to open space areas, parking lots, pedestrian walkways, recreation areas, utility and road rights-of way.

COMMUNITY [RESIDENTIAL] CARE FACILITY: A facility licensed by the state which provides primarily non-medical residential care services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed by the facility, on a 24-hour a day basis.

COMMUNITY CENTER: A building used for recreational, social, educational and cultural activities, open to the general public, usually owned and operated by a public or nonprofit group or agency.

COMMUNITY SEWAGE TREATMENT FACILITY: A community sewage treatment facility is any community wastewater treatment system, including treatment plan and associated structures, collection lines, disposal fields, or expansion thereof, which meet either of the following criteria: (1) any treatment plant or collection system with a capacity greater than 6500 gallons per day; or (2) any treatment plant or collection system in which connections or capacity are sold.

COMMERCIAL BED: An overnight accommodation, offered on a nightly, weekly, seasonal or other short term basis, in units, whether singly or separately owned, which may have a management entity operating the structure and/or facilities and may provide such services as maid service, a central switchboard, or dining facilities. Where units in the facility are under separate ownership, a rental and management contract between the unit owner and a rental and management agent are required. For purposes of this definition, separate ownership includes, but is not limited to, timeshare or interval ownership in fee or leasehold, condominium ownership and cooperative ownership with proprietary lease. For purposes of calculating density, two commercial beds per bedroom shall be assumed.

CONDOMINIUM: Single or multi-unit dwelling or dwellings, including detached, semi-detached, or multi-story structures, or any combination thereof, each of whose residents (unit owners) enjoys exclusive ownership of his individual apartment or unit while retaining an undivided interest as a tenant in common in the common facilities and areas of the condominium property.

CONTRACTOR'S YARD: A parcel of land with or without buildings thereon to be used for the storage of equipment, materials, and/or vehicles used in the operation of construction and related trades

COOPERATIVE: Single or multi-unit dwelling or dwellings similar to a condominium, including detached, semi-detached or multi-story structures, or any combination thereof, in which each owner has a lease entitling him or his tenants to occupy a particular unit, and such owner owns stock in the cooperative organization owning the property.

COTTAGE INDUSTRY: Light industry that occurs only within a historic barn in accordance with Section 4.2 and which involves not more than five employees on site at any time.

CRISIS SHELTER: A facility providing temporary protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for individuals, such as victims of rape or domestic violence.

CULTURAL FACILITY: A theater, concert hall, or other similar establishment offering programs, performances, or exhibits of cultural, educational, historic, or scientific interest including museums but excluding movie theaters.

DEGREE OF NONCOMPLIANCE: The extent to which a structure encroaches upon, or otherwise violates, one or more dimensional standard of these regulations. The extension of a structure which results in an additional encroachment of the noncomplying feature/element, including the expansion of the volume or area of a structure within a building setback, would increase the degree of noncompliance..

DEVELOPMENT: See LAND DEVELOPMENT.

DRIVEWAY: A minor, private travel way serving up to three adjoining parcels, which provides access for vehicles to a parking space, garage, dwelling or other structure.

DRIVE-THROUGH: A business establishment which includes a driveway approach or parking spaces for motor vehicles to serve patrons in their motor vehicles rather than within the building or structure.

DWELLING UNIT: One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household. The term "dwelling unit" shall not include a hotel, motel, boarding house or similar structure. Each dwelling unit shall constitute a separate unit for purposes of calculating density.

DWELLING UNIT-ATTACHED: A one family dwelling unit attached to one or more one family dwelling units by common vertical walls.

DWELLING UNIT-MULTI-FAMILY: A building containing two or more dwelling units, excluding ACCESSORY DWELLINGS.

DWELLING UNIT-SINGLE-FAMILY: A building containing one dwelling unit.

ELDERLY HOUSING: A multiple dwelling in one or more buildings, each unit of which is specifically designed and intended for occupancy by at least one person who is retired and 55 years of age or older. Such housing may include, as accessories, congregate dining and recreational facilities, and assisted living services.

EXTRACTION OF EARTH RESOURCES: A use involving the on-site removal surface and/or subsurface materials, including soil, sand, gravel, stone, rock, minerals or similar materials. Typical uses include sand and gravel pits and quarries, and related operations such as the crushing, screening, and temporary storage of materials on-site.. Specifically excluded from this definition is the grading and

removal of dirt which is associated with and incidental to an approved site plan or subdivision, or an excavation associated with an accepted agricultural practice.

FAMILY: A single person or group of two or more persons related by blood, marriage, adoption or civil union, or a group of not more than 5 persons, living together as a household.

FARM STRUCTURE: A building for housing livestock, raising horticultural or agronomic plant, or carrying out other practices associated with accepted agricultural or farming practices, as defined by the Commissioner of Agriculture, Food and Markets, as exempt from these regulations. Dwellings are specifically excluded from this definition. See **ACCEPTED AGRICULTURAL PRACTICES**.

FIA: Federal Insurance Administration.

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of the town, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards have been designated as Zones A, H, and/or E.

FLOOD INSURANCE RATE MAP (FIRM): An official map of the town, issued by the Federal Insurance Administrator, on which both the areas of special flood hazard and the applicable risk premium zones have been delineated.

FLOOD INSURANCE STUDY: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODWAY: 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.

FLOODPROOFED/FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOR AREA: The sum of the gross square foot area of the floors. All dimensions shall be measured between interior faces of walls.

FORESTRY: The growing and harvesting of trees or timber under proper forest management for purposes other than their fruit. For the purposes of these regulations, the term "Forestry" shall also include the use temporary processing equipment such as chippers and portable sawmills, which are used in association with harvesting operations, not exceeding a maximum of one year, and are removed from the site once harvesting operations are complete. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing, manufacturing and/or storage of wood and wood products. See also **SMALL SCALE PROCESSING**.

FRONT FACADE: The wall of a building that most directly faces and parallels a road and/or contains the main entry.

FUNERAL ESTABLISHMENT: A place of business devoted to the care and preparation for burial, disposal, or transportation of dead human bodies, including the selling of funeral services or merchandise.

GALLERY: An establishment engaged in the display and sale of art and craft work, excluding cultural facilities (See **ARTIST STUDIO, CULTURAL FACILITY**).

GAS STATION: Any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories.

GROUP HOME: A state licensed residential care home serving not more than 6 persons who are developmentally disabled or handicapped. For the purposes of these regulations, a group home shall constitute a single-family dwelling.

HALF STORY: A half story is a habitable portion of a building, which must have a ceiling a minimum of 7½ feet high above the floor, and whose total floor area must be at least 40% of the total floor area directly beneath.

HEADWATER STREAM: Any permanent or intermittent stream channel located above an elevation of 1,500 feet mean sea level.

HISTORIC BARN: Any barn structure within the Town of Waitsfield that has been certified in writing by the Vermont Division for Historic Preservation, or the Mad River Valley Rural Resource Commission (certified local government) to meet the following conditions: (1) the barn shall be more than 50 years old; and (2) the barn is deemed a significant structure as a part of the town's historic fabric and a reflection of the town's rural and agricultural heritage.

HOME BUSINESS: A business conducted by the resident(s) of a single-family dwelling, and not more than 4 non-resident employees, which is carried on within the principal dwelling and/or an accessory structure, and otherwise meets the requirements of these regulations (See Section 4.6). See also **HOME OCCUPATION**.

HOME CHILD CARE: A state registered or licensed family child care home, operated as an accessory to a single-family dwelling, in which up to 6 full-time and 4 part-time children are provided day care. See also **CHILD CARE FACILITY**.

HOME OCCUPATION: Any use conducted entirely within a dwelling and carried on by the occupants thereof, or not more than two nonresidents, which is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

HOTEL: A grouping of rooms which do not contain cooking facilities, offering overnight accommodations. The hotel may provide such services as maid service, a central switchboard or central dining facilities for the occupants. Each hotel room shall constitute a separate unit for purposes of calculating density. [Also includes **LODGE** and **INN**.]

KENNEL: The boarding, grooming, or training of four or more dogs, cats, or other household pets of any age.

LAND DEVELOPMENT: The construction, reconstruction, expansion, 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. The subdivision of land, including the division of a parcel into two or more parcels, is regulated under the Town of Waitsfield Subdivision Regulations, as most recently amended.

LEVEL OF SERVICE: The operating conditions that a driver will experience while traveling on a particular street or highway, including frequency of stops, operating speed, travel time, traffic density.

LEVEL OF SERVICE C: An operating condition that a driver will experience while traveling on a particular street or highway in which there is stable flow, but speed and maneuvering are more closely controlled by higher traffic volumes.

LEVEL OF SERVICE D: An operating condition that a driver will experience while traveling on a particular street or highway which approaches unstable flow, with tolerable operating speeds being maintained though considerably affected by changes in operating conditions.

LIGHT INDUSTRY: The manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products, including but not limited to agricultural products, timber products and food products.

LODGE: See HOTEL

LOFT: An area not to exceed one third of the area of the floor level below it, and open to that lower floor.

LOT: Land having not less than the minimum area, width and depth required in the district in which such land is situated, and having frontage on a street or other means of access as may be determined by the governing unit having jurisdiction to be adequate as a condition of the issuance of a permit.

LOT AREA: Total area within the property line, excluding any part thereof lying within the boundaries of a public road.

LOT COVERAGE: The total ground area covered by all structures, parking areas, walkways, driveways, and other impervious surfaces.

LOT FRONTAGE: Distance measured across the width of the lot along the edge of a streetline.

MAJOR SUBDIVISION: See Waitsfield Subdivision Regulations.

MANUFACTURING: Any process whereby the nature, size or shape of articles or raw materials are changed, or articles are assembled and/or packaged. Processing of produce where raised shall not be considered "manufacturing."

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA LEVEL: The National Geodetic Vertical Datum (NGVD), or other datum to which base flood and other surface elevations are referenced.

MEDICAL CENTER: A building or portion of a building containing offices and facilities for providing medical, dental and/or psychiatric services for outpatients only.

MIXED USE BUILDING: A structure containing two or more use types which are otherwise allowed as permitted or conditional uses within the district in which the structure is located.

MOBILE HOME: A manufactured dwelling unit which is designed for long term and continuous residential occupancy; is designed to be moved on wheels as a whole or in sections; on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly, connections to utilities and placing on support or permanent foundation or installation as a unit in a prepared structure; and utilizes the same water supply and waste disposal as immovable housing.

MOBILE HOME LOT: A parcel of land within a mobile home park that is set aside for and designated for occupancy by one single-family mobile home.

MOBILE HOME PARK: A parcel of land under single or common ownership or control which contains or is designed, laid out or adopted to accommodate three or more mobile homes.

MULTI-FAMILY DWELLINGS: See DWELLING UNIT–MULTI-FAMILY.

MUNICIPAL FACILITY: A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by the Town of Waitsfield.

MUNICIPAL PERMIT: As defined in the Act [§4303(24)] to include, as issued by the municipality: (1) final zoning, subdivision, site plan or building permits or approvals relating to subdivision and land development; (2) septic or sewage system permits; (3) final official minutes of meetings which relate to permits or approvals, which serve as the sole evidence of such permits or approvals; (4) certificates of occupancy, compliance or similar certificates; and (5) any amendments to the previously listed, permits, approvals and/or certificates.

MUSEUM: A building serving as a repository for collections of natural, scientific, or historic objects of interests, or works of art, which is designed for public viewing, and may include as accessory uses preservation, interpretive and educational services, and the retail sale of museum-related goods. See also CULTURAL FACILITY.

NEW CONSTRUCTION: Structures commenced on or after the effective date of this bylaw.

NONCONFORMING STRUCTURE: A structure or part thereof not in compliance with the provisions of this bylaw, relating to building height, area, yard, setback, or parking facilities, but which was in all respects lawful prior to the effective date of these regulations.

NONCONFORMING USE: A use of land, building or premises not permitted by this bylaw in the district in which said land, building or premises is located, but which use was in all respects lawful prior to enactment of this bylaw.

NURSERY: An enterprise which conducts the retail and/or wholesale distribution of plants, shrubs and trees and associated landscaping or gardening products. A nursery may be permitted as a retail establishment and/or agricultural operation in designated districts, providing it meets the definition of these respective uses (See RETAIL, AGRICULTURE).

OFFICE: A room, suite of rooms or building used for conducting a business, profession, service industry or government. The on-premise retail sale of goods is specifically excluded from this definition.

OPEN SPACE: The undeveloped portion of any development parcel which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, commercial recreation facilities, or yard areas, and which is set aside, dedicated, or designated, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

PARKING FACILITY: An area or structure used for the short-term storage of registered motor-vehicles.

PARKING SPACE: Off-street space, not including access driveways, used for temporary location of one licensed motor vehicle, which space shall be at least 9 feet wide and 20 18 feet long, and shall have direct access to a street or approved right of way.

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

PERSONAL SERVICE: An establishment primarily engaged in providing services involving the care of a person or his or her apparel, including but not limited to laundry and dry cleaning, beauty shops, barber shops, shoe repair, funeral services, and photographic studios.

PLACE OF WORSHIP: A building or structure, or group of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

PLANNED RESIDENTIAL DEVELOPMENT (PRD): An area of land to be developed as a single entity for a number dwelling units; the plan for which does not correspond in lot size, bulk, or type of dwelling, density, lot coverage, and required opens space under these regulations except as a planned unit development (see also PLANNED UNIT DEVELOPMENT).

PLANNED UNIT DEVELOPMENT (PUD): A tract of land to be developed as a single entity for residential, educational, industrial or commercial uses. Other characteristics of the planned unit development include common open space for use of residents, unitary design of building arrangement, an harmonious pattern of street, density, lot size and building bulk, any or all of which may not correspond to the regulations established in any one or more districts created in this Bylaw.

POST OFFICE: A facility operated by the U.S. Postal Service and used for the collection and distribution of mail.

PRIVATE CLUB: A building and related facilities operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit and whose members meet certain prescribed qualifications for membership.

PRIVATE ROAD: Any road or street serving four or more lots, and associated right-of-way, which is not publicly owned and maintained. The word "road" shall mean the entire right-of-way (see also DRIVEWAY).

PRINCIPAL BUILDING: A building in which the principal use of a parcel is conducted, as differentiated from an accessory building or structure (see Section 3.7).

PRINCIPAL USE: The primary or predominant use of a lot or parcel as differentiated from an accessory use (see Section 3.7).

PUBLIC FACILITY: A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipal or state or government. Such facilities include, but are not limited to, municipal buildings, garages and water and wastewater facilities, . Post offices and schools are specifically excluded from this definition.

PUBLIC ROAD: A road or street which is constructed within the boundaries of an officially deeded and accepted public right-of-way. The word “road” shall mean the entire right-of-way.

PUBLIC SCHOOL: A facility that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools principally supported by public taxation or tuition payments received from public funds.

RECONSTRUCT: To rebuild or replace a building or structure which has been destroyed, damaged or demolished from any cause.

RECREATION FACILITY, OUTDOOR OR INDOOR: Any facility used for recreation, including but not limited to tennis courts, golf courses, ski areas, skating rink, skateboard park, athletic fields, bowling alleys, spas, and swimming pools, except those facilities which are accessory to dwelling units.

RECREATION VEHICLE SALES & SERVICE: An establishment for the sale and servicing of recreation vehicles, which may include the outdoor display of such vehicles. See also CAMPER, TRAVEL TRAILER.

RESTAURANT: An establishment where food and drink is prepared, served and consumed primarily within the principal building.

RETAIL STORE: Establishment engaged in selling goods or merchandise to the general public for personal, business, or household consumption exclusive of wholesale and rendering services incidental to the sale of such goods. For the purposes of this bylaw, the following uses are excluded from the definition of retail store: restaurant, gasoline sales and/or motor vehicle repair station, car sales and service, trailer and mobile home sales and service and building supplies.

ROAD CENTERLINE: The center of the traveled way.

SCHOOL: A public, private or parochial institution certified by the State of Vermont to provide educational instruction to students. Such facilities may also include accessory recreational and dining facilities, and be used as officially designated, temporary emergency shelters.

SILVICULTURE: See FORESTRY.

SETBACK: The distance from the road centerline or other lot boundary to the nearest part of a building or structure on the premises.

SIGN: Any structure, display, device or representation which is designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing or activity of any kind, and is intended to be visible from a public or private road. In computing the area of a sign, not including the supporting structure, the area shall be the area of the smallest geometric shape with a level base line which can contain a sign, including the panel and frame, if any.

SMALL SCALE PROCESSING OF RAW AGRICULTURAL AND FOREST PRODUCTS: A facility for the processing of raw agricultural or forestry products involving a maximum of 2 on-site employees. This includes, but may not be limited to, sawmills and specialty food manufacturers.

SOCIAL SERVICE ORGANIZATION: Licensed organizations providing assistance to persons in such areas as child care, residential care and counseling for psychological problems, employment, learning disabilities, and physical disabilities.

SPECIAL EVENT: A temporary or occasional use that extends beyond the usual and customary activities associated with the permitted principal use of a parcel. Special events are those functions that (1) occur for a limited number of days, and (2) are intended to, or are likely to, attract at least 75 attendees, if that is a greater number of attendees than otherwise associated with the principal use of the property.

STORY: A story is that portion of a building, other than a basement, included between the surface of any floor and the surface of the next floor or ceiling above it. For the purposes of these regulations, a basement shall be counted as a story if the front exterior wall of the basement is a minimum of 50% above the finished grade.

STREETLINE: Edge of right of way of a street, either public or private, as dedicated by a deed of record. Where width of street is not established, the street line shall be considered to be 25 feet from the centerline of the traveled way.

STRUCTURE: An assembly of materials for occupancy or use, including but not limited to a building, mobile home or trailer, sign, storage shelter, wall or fence, except a wall or fence on an operating farm, and for flood hazard regulation purposes, a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (1) before the improvement or repair is started or (2) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of the structure to comply with existing state or local health, sanitary, or safety code specifications which are necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

TELECOMMUNICATIONS FACILITY: A support structure which is primarily for communication or broadcast purposes to transmit or receive communication signals for commercial, industrial, municipal, county, state or other governmental purposes, and associated ancillary facilities that provide access and/or house equipment (see Section 4.11).

TIMESHARE: One or more dwelling units in which the possession or occupancy of such dwelling unit(s) circulates among the various owners or lessees thereof in accordance with a fixed time schedule on a periodically recurring basis.

TRANSFER STATION: A facility serving as an intermediate destination for solid waste, which may include separation and recycling stations.

TRAVEL TRAILER OR RECREATION VEHICLE: Includes any vehicle used as sleeping or camping or living quarters mounted on wheels or a camper body, usually mounted on a truck or customarily towed by a motor vehicle. See CAMPER.

USE: The purpose or activity for which land or structures are designed, arranged, or intended for, or for which land or structures are occupied or maintained.

WAREHOUSE: A building used primarily for the storage of goods and materials.

WILDLIFE REFUGE: An area maintained in a natural state for the preservation of both animal and plant life.

WHOLESALE TRADE: Establishments engaged in selling merchandise and equipment to retailers or

industrial, commercial, or professional business users, or which acts as agents in buying and selling merchandise to such companies. Wholesale trade establishments are not involved in the sale of merchandise directly to the general public.

YARD: Space on a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD SALE: The temporary sale of personal property open to the general public and generally denoted by the terms “garage sale,” “attic sale,” “lawn sale,” “flea market,” “barn sale” or similar phrase. This definition only includes sales operated in compliance with the Town of Waitsfield Garage Sale Ordinance.

Appendix A: Narrative Description of Zoning District Boundaries, 2005

- A. **Village Residential District:** This District shall comprise the area located within the following boundaries, as depicted on the Waitsfield Zoning Map [Note: parcel numbers correspond with the Waitsfield Parcel (Tax) map numbers.]
- a. **West of the Mad River:** The northern boundary shall be the dividing boundary between the Waitsfield Elementary School parcel (parcel map #99051.000) and the Historic Wait House parcel (99052.000), so called, as referenced in the Waitsfield Land Records Book 21, Page 105. Such boundary shall continue in a westerly direction to a point 1,000 feet from the centerline of Vermont Route 100; shall then turn in a southerly direction parallel to Route 100 at a distance of 1,000 feet from the centerline to a point where the boundary intersects with the north fork of Tributary 15, as described in the Town Flood Insurance Rate Map; shall turn east to follow the center of the stream until its confluence with the Mad River excluding Parcel #99117.000 which shall now be in the Irasville Village District; then shall turn north following the center of the River across Bridge Street (TH#1) and shall then follow the boundary line of the 100 year floodplain as described on the Town Flood Insurance Rate Map, to the northern boundary line. Excluded within this district, as described herein, are those parcels included in the Historic Waitsfield Village District described in (B), below.
- b. **East of the Mad River:** The district shall encompass parcels 01007.000, 01008.500, 01011.000, and 01010.000 on the north side of Bridge Street, and parcels 01006.000, 01012.000, 01013.000, and the portion of parcel 01015.000 between Bridge Street and a line running in an easterly direction parallel to the rear boundary of parcel 01012.000 to the Mad River.
- B. **Village Business District:** This District shall comprise the area encompassing the following parcels, as identified in the Waitsfield Grand List: parcels 01003.000, 01002.000, 01001.000, 99072.000, 99068.000, 99068.100, 99069.000, 99070.000, 99071.000, 99101.000, 99104.000, 99105.000, 99108.000, [99108.200, 99108.300, 99108.400], 99110.000, 01004.000, [99108.100,] and 01005.000, and as depicted on the Waitsfield Zoning Map. [Note: Parcel numbers correspond with the Waitsfield Parcel (Tax) Map numbers.]
- C. **Historic Waitsfield Village Overlay District:** Boundaries coincide with the Waitsfield Village Historic District as listed on the National Register of Historic Places and depicted on the sketch map included with the historic district nomination to the National Register of Historic Places dated May 1983.
- D. **Irasville Village District:** This District shall comprise the area located within the following boundaries: The Mill Brook running out of South Fayston and emptying into the Mad River on the south; the Mad River from the point of the Mill Brook, so-called, on the east to a point on the Mad River where it intersects with Tributary 15, as described on the Town Flood Insurance Rate Map and to include parcel #99117.000; Tributary 15 to its north fork, then along its north fork to its intersection with the Waitsfield/Fayston Town line to the point of beginning.
- E. **Agricultural-Residential District:** All lands not within the Village Residential, Village Business, Historic Waitsfield Village Overlay, Irasville Commercial, Forest Reserve, Commercial Lodging, and Industrial Districts as delineated on the Zoning Map.

- F. **Forest Reserve District:** All lands situated at or above an elevation of 1,500 feet above mean sea level (or more) and all lands within the Camel's Hump State Forest; but excluding those lands within the Ski Valley Acres Development, which pre-dated Waitsfield Zoning Regulations, as depicted on a survey map entitled "Ski Valley Acres, Waitsfield, Vermont" as prepared by Webster-Martin, Inc. and dated Dec. 1964, and recorded in the Waitsfield Land Records at Map Slide #76 and also Map Box #1 sleeve #6.
- G. **Commercial Lodging District:** The first portion of the Commercial Lodging District is described as follows: beginning at the intersection of Route 100 and the Waitsfield/Warren Town line to a point southeasterly 3,000 feet along the Town line, then left northeasterly parallel to Route 100 to the intersection of the Rolston Road; then northwesterly along the Rolston Road to a point that is 1,000 feet southeasterly from the intersection of the Rolston Road and Route 100; then northeasterly to a point that is 1,000 feet southeasterly on a compass heading of 132 degrees from the intersection of a point on Route 100, 262 feet south of the intersection of Route 100 and TH 30; then northeasterly on a compass heading 42 degrees for 1,800 feet; then left 90 degrees northwesterly on a compass heading of 312 degrees to the intersection of this heading and the 800 foot contour line; then northerly along the 800 foot contour line to the intersection of the extension of Mill Brook and the 800 foot contour line; then southwestwesterly along the extension of Mill Brook to the intersection of Route 100; then southerly along Route 100 to the point of beginning.

Excluded from the preceding portion of the Commercial Lodging District are those parcels of land described as being in the Limited Business District (H, below).

The second portion of the Commercial Lodging District is described as follows: beginning at the point where Mill Brook crosses the Waitsfield/Fayston Town line, and following the Brook southeasterly to its intersection with Route 100, then south-southeasterly along Route 100 to its intersection with the Mad River, thence southerly along the Mad River to its confluence with Tributary #5 (as designated on the Waitsfield Flood Insurance Rate Map), thence westerly on a straight line of 2,000 feet from the point of confluence to the northeastern-most corner of the Camel's Hump State Forest property in Waitsfield, thence along said property boundary to its northern-most intersection with the Waitsfield/Fayston Town line, and thence northerly along said Town line to the point of origin.

- H. **Limited Business Zone:** The Limited Business Zone as described is excluded from the Commercial Lodging District. Beginning at a point on Route 100, 262 feet south of the intersection of Route 100 and TH 30; then on a compass heading of 132 degrees for 1,000 feet; then left 90 degrees northeasterly on a compass heading 42 degrees for 1,800 feet; then left 90 degrees on a compass heading of 312 degrees to the intersection of this heading and Route 100; then southerly along Route 100 to the point of beginning.
- I. **Industrial District:** The Industrial District is described as follows: beginning at a point on Airport Road 275 feet northwesterly from its intersection with Route 100; then northeasterly to a point on the North Fayston Road located 960 feet westerly from its intersection with Route 100; then northwesterly along North Fayston Road to the property line of parcel 02007.000; then southwestwesterly along the side property line of parcel 02007.000; then northwesterly along the rear property lines of parcels 02007.000, 02009.000, 02011.000, 02013.000, 02015.000 and 02017.000 to the Fayston Town line (and meant to exclude that portion of parcel 06001.000 laying between parcels 02015.000, 02017.000, and North Fayston Road); then southwestwesterly along the Waitsfield/Fayston Town line to the property line of parcel 06005.000; then southeasterly along the rear property line of parcel 06005.000; then southwestwesterly along the side

property line of parcel 06005.000 to the intersection with Airport Road; then southeasterly along Airport Road to property line of parcel 06003.000; then northeasterly along the side property line of parcel 06003.000 then southeasterly along the rear property lines of parcels 06003.000 and 06002.000; then southwesterly along the side property line of parcel 06002.000 to the intersection with Airport Road; then southeasterly along Airport Road to the point of beginning. [Note: Parcel numbers correspond with the Waitsfield Parcel (Tax) Map numbers.]