

Town of Hardwick, Vermont
Draft Unified Development Bylaws

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**TABLE 2.1
CENTRAL BUSINESS DISTRICT (CB)**

(A) Purpose. The purpose of the Central Business District is to support a compact mix of commercial, professional, civic and residential uses in Hardwick's traditional downtown in a manner that maintains and enhances the area's historic character and economic vitality.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Group Home [8 or fewer residents]
5. Home Child Care [see Section 4.6]
6. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Adaptive Reuse [see Section 4.3]
3. Bank/Financial Institution
4. Bed & Breakfast
5. Community Center
6. Cultural Facility
7. Day Care Center [see Section 4.6]
8. Dwelling/Single Family
9. Dwelling/Two Family
10. Dwelling/Multi-Family
11. Funeral Home
12. Gasoline Station [see section 4.12]
13. Greenhouse/Nursery
14. Health Clinic
15. Home Industry [see Section 4.8]
16. Hotel/Motel
17. Hospital
18. Industry, Light [see Section 4.9]
19. Mixed Use [see Section 4.10]
20. Motor Vehicle Sales
21. Motor Vehicle Service [see section 4.12]
22. Office
23. Residential Care Facility
24. Personal Service
25. Place of Worship
26. Private Club
27. Public Facility [see Section 4.13]
28. Recreation [Indoor]
29. Recreation [Outdoor]
30. Restaurant
31. Retail Sales
32. School
33. Telecommunications Facility [see Section 4.15]
34. Warehouse/Storage

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	5,000 square feet
Minimum Frontage	50 feet
Minimum Setback/Front	0 feet
Minimum Setback/Side	5 feet
Minimum Setback/Side with signed agreement with neighboring property owner and provision of fire-walls.	0 feet
Minimum Setback/Rear	15 feet
Minimum Setback/Side and Rear for Accessory Structure	5 feet
Maximum Height	35 feet

TABLE 2.2
VILLAGE NEIGHBORHOOD [VN] DISTRICT

(A) Purpose. The purpose of the Village Neighborhood District is to provide for high density residential development and appropriate non-residential uses in existing neighborhoods located close to Hardwick's traditional downtown in a manner that maintains historic settlement patterns and streetscapes.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Agriculture
5. Dwelling/Single Family
6. Dwelling/Two Family
7. Forestry
8. Group Home [8 or fewer residents]
9. Home Child Care
10. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Adaptive Reuse [see Section 4.3]
3. Bank/Financial Institution
4. Bed & Breakfast
5. Cemetery
6. Community Center
7. Cultural Facility
8. Day Care Center [see Section 4.6]
9. Dwelling/Multi-Family
10. Funeral Home
11. Greenhouse/Nursery
12. Health Clinic
13. Home Industry [see Section 4.8]
14. Hospital
15. Hotel/Motel
16. Mixed Use [see Section 4.10]
17. Office
18. Residential Care Facility
19. Personal Service
20. Place of Worship
21. Private Club
22. Public Facility
23. Recreation [Indoor]
24. Recreation [Outdoor]
25. School
26. Telecommunications Facility [see Section 4.15]

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	7,500 square feet
Minimum Lot Area per Unit – Class 1	1 per 3,500 square feet
Minimum Lot Area per Unit – Class 2	1 per 7,500 square feet
Minimum Lot Area per Unit – Class 3	1 per 7,500 square feet
Minimum Frontage	70 feet
Minimum Setback/Front	10 feet
Minimum Setback/Side	10 feet
Minimum Setback/Rear	15 feet
Minimum Setback/Side and Rear for Accessory Structure	5 feet
Maximum Height	35 feet

**TABLE 2.3
HIGHWAY MIXED-USE [HM] DISTRICT**

(A) Purpose. The purpose of the Highway Mixed-Use District is to allow automobile-oriented businesses and other compatible uses along major travel corridors contiguous to the historic village centers, while maintaining safe and efficient traffic flow.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Agriculture
5. Dwelling/Single Family
6. Dwelling/Two Family
7. Forestry
8. Group Home [8 or fewer residents]
9. Home Child Care [see Section 4.6]
10. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Bank/Financial Institution
3. Bed & Breakfast
4. Cemetery
5. Community Center
6. Cultural Facility
7. Day Care Center [see Section 4.6]
8. Dwelling/Multi-Family
9. Extraction of Earth Resources
10. Funeral Home
11. Gasoline Station [see section 4.12]
12. Greenhouse/Nursery
13. Health Clinic
14. Home Industry [see Section 4.8]
15. Hotel/Motel
16. Industry [Light]
17. Mixed Use [see Section 4.10]
18. Mobile Home Park [see section 4.11]
19. Motor Vehicle Sales
20. Motor Vehicle Service [see section 4.12]
21. Office
22. Residential Care Facility
23. Personal Service
24. Place of Worship
25. Private Club
26. Public Facility
27. Recreation [Indoor]
28. Recreation [Outdoor]
29. Restaurant
30. Retail Sales
31. Sawmill
32. School
33. Telecommunications Facility [see Sec. 4.15]
34. Veterinary Clinic
35. Warehouse/Storage

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	20,000 square feet
Minimum Lot Area per Unit – Class 1	1 per 5,000 square feet
Minimum Lot Area per Unit – Class 2 & 3	1 per 10,000 square feet
Minimum Frontage	100 feet
Minimum Setback/Front	20 feet
Minimum Setback/Side	20 feet
Minimum Setback/Rear	20 feet
Minimum Setback/Side and Rear for Accessory Structure	20 feet
Maximum Height	35 feet

**TABLE 2.4
COMPACT RESIDENTIAL [CR] DISTRICT**

(A) Purpose. The purpose of the Compact Residential District is to provide for moderate to high density residential development, and appropriate non-residential uses, in predominately built-up areas within and surrounding the town's traditional village centers.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Agriculture
5. Dwelling/Single Family
6. Dwelling/Two Family
7. Forestry
8. Group Home [8 or fewer residents]
9. Home Child Care [see Section 4.6]
10. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Adaptive Reuse [see Section 4.3]
3. Bank/Financial Institution
4. Bed & Breakfast
5. Campground
6. Cemetery
7. Community Center
8. Cultural Facility
9. Day Care Center [see Section 4.6]
10. Dwelling/Multi-Family
11. Extraction of Earth Resources [see Sec. 4.7]
12. Funeral Home
13. Greenhouse/Nursery
14. Health Clinic
15. Home Industry
16. Mixed Use
17. Mobile Home Park [see Section 4.11]
18. Office
19. Residential Care Facility
20. Personal Service
21. Place of Worship
22. Private Club
23. Public Facility [see Section 4.13]
24. Recreation [Indoor]
25. Recreation [Outdoor]
26. School
27. Telecommunications Facility [see Sec. 4.15]
28. Veterinary Clinic
29. Warehouse/Storage

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size – Class 1	10,000 square feet
Minimum Lot Size – Class 2	20,000 square feet
Minimum Lot Size – Class 3	30,000 square feet
Minimum Frontage – Class 1	70 feet
Minimum Frontage – Class 2	100 feet
Minimum Frontage – Class 3	150 feet
Minimum Setback/Front	15 feet
Minimum Setback/Side	20 feet
Minimum Setback/Rear	20 feet
Minimum Setback/Side and Rear for Accessory Structure	10 feet
Maximum Height	35 feet

TABLE 2.5
INDUSTRIAL [I] DISTRICT

(A) Purpose. The purpose of the Industrial District is to encourage a variety of industrial, manufacturing and appropriate commercial uses, while protecting such uses from incompatible residential uses, in locations served by municipal water and sewer and good highway access.

(B) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Caretakers Apartment [see Section 4.2]
3. Contractor's Yard
4. Day Care Center [see Section 4.6]
5. Extraction of Earth Resources
6. Hazardous Waste Facility [see Section 4.13]
7. Industry [Light] [see Section 4.9]
8. Industry [Heavy]
9. Motor Vehicle Service [see Section 4.12]
10. Public Facility
11. Salvage Yard [see Section 4.14]
12. Sawmill
13. Telecommunications Facility [see Section 4.15]
14. Transfer Station
15. Warehouse/Storage

(C) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	20,000 square feet
Minimum Frontage	100 feet
Minimum Setback/Front	20 feet
Minimum Setback/Side	20 feet
Minimum Setback/Rear	20 feet
Minimum Setback/District Boundary	20 feet
Maximum Height	35 feet

**TABLE 2.6
RURAL RESIDENTIAL[RR] DISTRICT**

(A) Purpose. The purpose of Rural Residential District is to promote agriculture, forestry and low to moderate density residential development in areas well served by public roads but lacking municipal water and sewer. To ensure the protection of environmental resources and maintain open space, the clustering of new development is strongly encouraged.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Agriculture
5. Dwelling/Single Family
6. Forestry
7. Group Home [8 or fewer residents]
8. Home Child Care [see Section 4.6]
9. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Adaptive Reuse [see Section 4.3]
3. Bed & Breakfast
4. Campground
5. Cemetery
6. Contractors Yard
7. Cultural Facility
8. Day Care Center [see Section 4.6]
9. Dwelling/Multi-Family [only in PRD under Section 5.4]
10. Dwelling/Two Family
11. Extraction of Earth Resources [see Sec. 4.7]
12. Greenhouse/Nursery
13. Health Clinic
14. Home Industry [see Section 4.8]
15. Kennel
16. Landfill [see Section 4.13]
17. Mobile Home Park [see Section 4.11]
18. Residential Care Facility
19. Place of Worship
20. Public Facility
21. Recreation [Outdoor]
22. Retreat Center
23. Sawmill
24. School
25. Transfer Station
26. Telecommunications Facility [see Section 4.15]
27. Veterinary Clinic
28. Warehouse/Storage

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	3 acres
Minimum Area per Unit	1 per 3 acres
Minimum Frontage	200 feet
Minimum Setback/Front	35 feet
Minimum Setback/Side	50 feet
Minimum Setback/Rear	50 feet
Minimum Setback/Side & Rear for Accessory Structure	20 feet
Maximum Height	35 feet

**TABLE 2.7
FOREST RESERVE [FR] DISTRICT**

(A) Purpose. The purpose of the Forest Reserve is to protect significant forest resources and limit development to low densities in areas with steep slopes, shallow soils, unique or fragile resources, significant wildlife habitat, and poor access to town roads and community facilities and services.

(B) Permitted Uses:

1. Accessory Apartment [see Section 4.2]
2. Accessory Structure/Use (to a permitted use)
3. Accessory Structure less than or equal to 500 sq. ft. (to a conditional use)
4. Agriculture
5. Seasonal Camp
6. Forestry
7. Group Home [8 or fewer residents]
8. Home Child Care [see Section 4.6]
9. Home Occupation [see Section 4.8]

(C) Conditional Uses:

1. Accessory Structure/Use (to a conditional use)
2. Bed & Breakfast
3. Campground
4. Dwelling/Single Family
5. Extraction of Earth Resources [see Sec. 4.7]
6. Greenhouse/Nursery
7. Health Clinic
8. Kennel
9. Public Facility
10. Recreation [Outdoor]
11. Retreat
12. Telecommunications Facility [see Section 4.15]

(D) Dimensional Standards (unless otherwise specified for a particular use):	
Minimum Lot Size	25 acres
Minimum Area per Unit	1 per 25 acres
Minimum Frontage	300 feet
Minimum Setback/Front	50 feet
Minimum Setback/Side	50 feet
Minimum Setback/Rear	50 feet
Minimum Setback/Side & Rear for Accessory Structures	20 feet
Maximum Height	35 feet

**TABLE 2.8
FLOOD HAZARD AREA OVERLAY [FHO] DISTRICT**

(A) Purpose. The purpose of the Flood Hazard Area Overlay District is to (1) protect public health, safety, and welfare by preventing or minimizing hazards to life and property due to flooding, and (2) to ensure that private property owners within designated flood hazard areas are eligible for flood insurance under the National Flood Insurance Program (NFIP).

(B) Permitted Uses:

1. Agriculture
2. Home Child Care [see Section 4.6]*
3. Forestry
4. Home Occupation [see Section 4.6]*
5. Group Home [8 or fewer residents]*

* within an existing single family dwelling.

(C) Conditional Uses:

All other uses allowed within the underlying zoning district, except for contractor's yards, salvage yards, and solid and hazardous waste management facilities, which are specifically excluded from this district.

(D) Dimensional Standards (unless otherwise specified for a particular use):

As required for the underlying zoning district.

(E) District Standards

1. Where the standards of this overlay district differ from underlying district standards, the more restrictive shall apply.
2. Uses permitted within the Flood Hazard Area Overlay include agriculture and forestry, undeveloped open space, and those uses generally allowed within existing single family dwellings which do not require structural alterations (i.e., home child care and home occupations). All other uses and structures, including but not limited to new or expanded single family dwellings, additions and accessory structures, are subject to review under Section 5.3, as well as all other applicable municipal and state regulations. A "permitted" use in the underlying zoning district will be reviewed only in accordance with the standards set forth in Section 5.3, and not other conditional use standards under Section 5.2.
3. Mandatory state [§4424] and federal [44 CFR 60.3 and 60.6] requirements for continued eligibility in the National Flood Insurance Program, including but not limited to associated structural standards, definitions, administrative and variance requirements, are hereby adopted by reference and shall be applied to all development in this district. Accordingly:
 - a. Applications for development within the Flood Hazard Area Overlay District must include information required under Section 5.3, and are subject to state and federal agency referral requirements under Sections .
 - b. Development in the Flood Hazard Area Overlay District shall be subject to flood hazard area review standards under Section 5.3, in addition to applicable requirements of the underlying zoning district.
 - c. Requests for variances for development within the Flood Hazard Area Overlay District must meet the requirements of Section 7.4 in addition to variance requirements under Section 7.4(C).
 - d. Permits, certifications and variance actions for development within the Flood Hazard Area Overlay District shall be recorded by the Zoning Administrator in accordance with Section 7.6.

ARTICLE 1. AUTHORITY & PURPOSE

Section 1.1 Enactment

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

Section 1.2 Purpose

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

- encourage the appropriate and efficient use of all lands in the Town of Hardwick in a manner which promotes and protects public health, safety and the general welfare of the community;
- facilitate the adequate and efficient provision of public facilities and services;
- implement the *Hardwick Town Plan* as most recently amended;
- integrate all administrative and regulatory provisions of zoning and subdivision regulations as authorized by the Act [§4401 and §4401] into a single UDB;
- further the goals and purposes established in the Act [§4302]; and
- protect the individual property rights of landowners to the extent consistent with the other purposes of these Bylaws as stated above.

Section 1.3 Application & Interpretation

(A) The application of these Bylaws is subject to all provisions of the Act. No land development or land subdivision shall commence within the Town of Hardwick except in conformance with the requirements of these Bylaws. Any land development or land subdivision not specifically authorized under these Bylaws, or otherwise exempted under Section 6.1 and/or Section 7.2, is prohibited.

(B) All uses or structures lawfully in existence as of the effective date of these Bylaws are allowed to continue indefinitely. Changes, alterations or expansions to pre-existing structures or uses shall be subject to all applicable requirements of these Bylaws, including provisions applying to nonconforming uses and/or nonconforming structures under Section 3.9.

(C) These Bylaws is not intended to repeal, annul or in any way to impair any permit previously adopted or issued. Where these Bylaws impose a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of these Bylaws shall control.

(D) In the event of changes to the Act which nullify or supersede a specific provision of these bylaws, the requirements of the Act, as most recently amended, shall control.

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

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

Section 1.4 Adoption & Effective Date

(A) In accordance with the Act [§4442], these Bylaws shall take effect 21 days after the date of its adoption by the Hardwick Selectboard. Upon the effective date of these Bylaws, the zoning Bylaws previously in effect ("*Hardwick Zoning and Subdivision Bylaws*," effective October 30, 2003) are deemed repealed.

(B) These Bylaws may be amended or repealed in accordance with the requirements and procedures established in the Act [§§ 4441, 4442].

Section 1.5 Severability

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

ARTICLE 2. ZONING DISTRICTS

Section 2.1 Establishment of Zoning Districts & Map

(A) The Town of Hardwick is hereby divided into the following zoning districts as described in the accompanying tables (Tables 2.1 - 2.8) and shown on the official zoning map and associated overlays:

- Central Business (CB) District
- Village Neighborhood (VN) District
- Highway Mixed-Use (HM) District
- Compact Residential (CR) District
- Industrial (I) District
- Rural Residential (RR) District
- Forest Reserve (FR) District
- Flood Hazard Overlay (FHO) District

(B) The location and boundaries of each zoning district are depicted on the official "Town of Hardwick Zoning Map" and the most current National Flood Insurance Program maps, which are adopted by reference and declared to be part of these bylaws. The official zoning map and associated overlays may only be altered by amendment to these bylaws in accordance with Section 1.4 and the Act [§§4441,4442].

(C) The official zoning map and overlays shall be located in the Hardwick Town Office, and shall be identified by the signatures of the Selectboard, as attested to by the Town Clerk. These maps shall be the final authority as to the zoning status of any lands or waters in the town.

Section 2.2 Zoning District Boundary Interpretation

(A) Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlays, the following rules shall apply:

- (1) Boundaries indicated as following roads, transportation or utility rights-of-way shall be interpreted to follow the centerlines of such features.
- (2) Boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features.
- (3) Boundaries indicated as following shorelines shall be interpreted as the normal mean water level. In the event of change in the shoreline the boundary shall move with the shoreline.
- (4) Boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary.
- (5) Boundaries indicated as following contour lines shall be interpreted to follow a constant, specified elevation as measured from mean sea level or other accepted reference datum.
- (6) Boundaries indicated as following compass headings shall be interpreted to follow such headings.
- (7) Boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.

- (8) Distances not specifically indicated shall be determined by the scale on the official zoning map.
- (B) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these bylaws, shall not affect the location of the district boundary line except with regard to shorelines, streams and rivers as specified above.
- (C) Where available (i.e., in Zones 1- A30, AE and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the flood hazard area overlay district provisions of these bylaws. In areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e., Zone A), base flood elevations and floodway information available from state or federal agencies or other sources shall be obtained and reasonably used to administer and enforce flood hazard area overlay provisions.
- (D) When the Zoning Administrator cannot definitely determine the location of a district boundary, the Planning Commission and/or appropriate state or federal official may be consulted prior to issuing a determination. A determination by the Zoning Administrator regarding the location of a district boundary may be appealed to the Board of Adjustment under Section 7.3.
- (E) Where a district boundary divides a lot in single ownership as of the effective date of these bylaws, or any amendment thereto, the Board of Adjustment may permit, subject to conditional use review under Section 5.2, the extension of district standards for either portion of the lot up to 30 feet beyond the district line into the remaining portion of the lot.
- (F) Where a lot is divided by a town boundary, the standards of these bylaws shall be applied to that portion of the lot located in the Town of Hardwick in the same manner as if the entire lot were located in this town.

Section 2.3 Application of District Standards

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

availability of municipal sewer and/or water. For this purpose, the following lot classifications are established:

- Class 1 – Served by both municipal water and sewer.
- Class 2 – Served by either municipal water OR sewer, but not both.
- Class 3 – Not served by municipal water or sewer.

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

Section 2.4 Zoning District Standards

The following Tables 2.1-2.8 set forth the stated purpose, allowed uses and specific standards for each zoning district. Additional district standards pertaining to conditional uses may be found under Section 5.2, and for planned residential developments under Section 5.4. Standards applicable to specific uses also may be set forth in Article 4.

ARTICLE 3. GENERAL REGULATIONS

Section 3.1 Applicability

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

Section 3.2 Damaged Structures

(A) No zoning permit is required for the stabilization of damaged structures to prevent hazards to public health or safety, or to adjoining properties, structures or uses (e.g., fire, collapse, squatting); nor for the timely repair or reconstruction of damaged structures to the extent of their prior condition and use, provided such stabilization, repair or reconstruction occurs within 12 months of the date the structure is damaged. Reconstruction that results in changes in density, dimension or use under applicable provisions of these regulations shall require a zoning permit issued in accordance with Section 7.1.

(B) If an owner has not stabilized, repaired or reconstructed a structure that has been demolished, destroyed, or substantially damaged within 12 months of the date of damage or demolition, and the structure is determined by the Town Health Officer to present a hazard to public health and safety, the owner shall remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.

Section 3.3 Access & Frontage Requirements

(A) In accordance with the Act [§4412(3)], no land development may be permitted on lots which do not have either frontage on a public or private road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement, right-of-way or fee-simple ownership at least 50 feet in width. In granting approval under this Section, the Commission shall consider the intended use and shall ensure the proposed access does not pose a hazard to traffic and pedestrian safety.

(B) Access onto public roads is subject to the approval of the Hardwick Selectboard, and for state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with all municipal land use regulations is required. Access permits must be obtained prior to the issuance of a zoning permit.

(C) With the exception of parcels in agricultural or forestry use, no lot created after the effective date of these bylaws shall be served by more than one (1) access or driveway unless otherwise approved under conditional use review in accordance with Section 5.2. The consolidation of existing accesses and/or shared access between adjoining lots is encouraged and may be required as a condition of such approval. Access widths shall be limited to that approved, and not extend along the length of road frontage.

(D) No driveway intersection with a public road shall be located within seventy-five (75) feet of a street line intersection.

Section 3.4 Conversions & Changes of Use

(A) Conversions or changes in the use of land, existing buildings, or other structures are subject to the following:

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

Section 3.5 Equal Treatment of Housing

(A) In accordance with the Act [§4412(1)]:

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

Section 3.6 Existing Small Lots

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

(B) Existing small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of these regulations. However, such lots shall not be deemed merged, and may be separately conveyed, if in accordance with the Act *all* of the following requirements are met:

- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) each lot had been developed with a water supply and wastewater disposal system; and
- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [§4412(2)].

Section 3.7 Height Requirements

(A) The maximum height of structures in all districts shall not exceed the district maximum, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of these bylaws:

- (1) agricultural structures in accordance with the Act [§4413(D)];
- (2) steeples, spires, belfries, bell and clock towers;
- (3) accessory structures associated with residential use which are less than fifty (50) feet in height above the lowest grade at ground level at the base of the structure, including antenna structures, wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures.

(B) The Board of Adjustment may permit structures in excess of the district standard subject to conditional use review under Section 5.2, upon finding that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) that portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance;
- (3) the structure is not to be used for advertising purposes;
- (4) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and,
- (5) the proposed building height and scale are consistent with the character of the immediate surroundings.

(C) Notwithstanding these requirements, or the district maximum height standards, telecommunications facilities shall meet the standards set forth in Section 4.15, including those standards which relate to maximum height.

Section 3.8 Lot & Yard Requirements

(A) Only a single principal use or structure may be located on a single lot, unless permitted within the specific district as:

- (1) an accessory use to a principal use (e.g., a home occupation, home child care);
- (2) a mixed use (see Section 4.10);
- (3) agricultural and forestry uses;
- (4) the adaptive reuse of a historic structure in accordance with Section 4.3; or
- (5) as otherwise approved by the Planning Commission as part of a Planned Residential Development (PRD) in accordance with Section 5.4.

(B) Notwithstanding subsection 3.8(A), above, the Zoning Administrator may permit two single family dwellings on a single parcel under Section 7.1 provided:

- (1) the parcel meets all applicable lot size, density and dimensional standards for the district in which the parcel is located;
- (2) the dwellings are set back from one another a minimum of twice the side yard setback distance for the district in which they are located; and
- (3) the Zoning Administrator determines that if the parcel were subdivided into two parcels each would meet all requirements for a conforming use and conforming structure under these bylaws.

(C) An accessory structure or use must conform to all lot setback, coverage and other dimensional requirements for the district in which it is located, unless otherwise exempted under Section 7.2.

(D) No lot shall be so reduced in area that it cannot conform to area, setback, frontage, coverage and other dimensional requirements as prescribed in these regulations, except as approved by the Planning Commission for PRDs in accordance with Section 5.4.

(E) Any interior lot which does not have frontage on a public or private road or public waters shall meet minimum setback requirements equal to the front yard setback distance for the district in which it is located from all adjacent property boundaries.

(F) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.

Section 3.9 Nonconforming Structures & Nonconforming Uses

(A) **Nonconforming Structures.** Any pre-existing structure or part thereof which does not conform to the provisions of these regulations concerning density, setbacks, height, lot size or other dimensional standard, or which does not meet other applicable requirements of these regulations, shall be deemed a Nonconforming structure. In accordance with the Act [§4412(7)], Nonconforming structures legally in existence on the effective date of these regulations including a structure improperly authorized as a result of error by the administrative officer may be allowed to continue indefinitely, but shall be subject to the following provisions. A Nonconforming structure:

- (1) may undergo normal repair and maintenance provided that such action does not increase the degree of nonconformity (see definition of degree of nonconformity in Article 10.2);

- (2) may be restored or reconstructed after damage from any cause, in accordance with Section 3.2 and provided that the reconstruction does not increase the degree of nonconformity which existed prior to the damage;
- (3) may be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of nonconformity;
- (4) may, subject to conditional use review under Section 5.2, undergo alteration or expansion which would increase the degree of nonconformity solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards).

(B) **Nonconforming Uses.** Any use of land or a structure which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. In accordance with the Act [§4412(4)], nonconforming uses which legally exist on the effective date of these regulations including a use improperly authorized as a result of error by the administrative officer may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

- (1) shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from any cause, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within one year of such damage;
- (2) shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of 12 months, regardless of the intent to re-establish such prior use;
- (3) shall not be changed to another nonconforming use without the approval of the Board of Adjustment in accordance with Section 5.2, and then only to a use which, in the opinion of the Board, is of the same or a more restricted nature;
- (4) shall not be moved, enlarged, or increased by any means whatsoever, except with the approval of the Board of Adjustment subject to conditional use review under Section 5.2. In no case shall a nonconforming use be moved to a different lot within the same district in which it is located.

Section 3.10 Parking & Loading Requirements

(A) Off-street parking spaces shall be provided in accordance with this section when any use is established or enlarged unless otherwise approved by the Board of Adjustment or waived under subsection 5.2.

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

approved under site plan or conditional use review and shall be screened from adjoining residential properties.

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

(B) **Loading and Service Areas.** In all zoning districts other than the Central Business District, off-street loading space shall be provided for commercial, industrial or institutional uses which will receive shipments in vehicles too large for a standard parking space. Space provided shall be specifically for off-street loading and shall be large enough to fully accommodate the maximum number of such vehicles expected to be on the premises at any one time. Service areas also may be required for development subject to site plan or conditional use review to accommodate emergency vehicles, waste collection and disposal areas, transit service, or other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner that parked vehicles will not block or obstruct access or sight visibility at intersections.

(C) **Waivers.** On-site parking, loading, and/or service area requirements may be reduced or waived by the Planning Commission under site plan review based upon a determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is unnecessary:

- (1) suitably landscaped vacant land is set aside and maintained as open space for future conversion to parking, loading or services area in the event that the amount of space initially permitted is deemed inadequate to meet demonstrated need; or
- (2) shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; or
- (3) adequate off-site public parking exists within reasonable walking distance of the establishment;
- (4) sufficient off-site parking has been procured (e.g., through lease agreements) in a private or municipal parking lot; or
- (5) the proposal is specifically for the development of elderly housing.

Section 3.11 Performance Standards

(A) In accordance with the Act [§4414(5)], the following performance standards must be met and maintained for all uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No use, under normal conditions, shall cause, create or result in:

- (1) **regularly occurring noise** in excess of 65 decibels, or 70 decibels within the Industrial District, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
- (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
- (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
- (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
- (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
- (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
- (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

(C) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture (see Section 10.2).

(D) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section 10.2). Such AMPs include *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*.

Section 3.12 Protection of Water Resources

(A) **Surface Waters.** To prevent soil erosion and sedimentation of surface waters, maintain water quality and protect wildlife habitat, the following standards shall apply to all streams and rivers:

- (1) All septic systems shall meet all applicable state standards and regulations;
 - (2) All structures shall be setback a minimum of 75 feet from all streams, rivers and public lakes, although the Board of Adjustment may, in accordance with conditional use review under Section 5.2, approve the placement of a structure within the 75 feet setback providing it meets the following standards:
 - (a) the structure is located within the Central Business District or the Village Neighborhood District; and
 - (b) the building placement will better reflect the historic settlement pattern and character of the surrounding area; and
 - (c) reasonable provision is made for the protection of water quality such as, but not limited to, the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer areas along streambanks, and/or stormwater management provisions to collect and disperse stormwater away from the stream or river.
 - (3) An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all streams, rivers and lakes. The 25 feet buffer strip shall be measured from the top of the streambank. No development, excavation, filling, clearing or grading shall occur within the buffer strip, with the exception of clearing and associated site development necessary to accommodate the following:
 - (a) road, driveway and utility crossings;
 - (b) streambank stabilization and restoration projects, in accordance with applicable state and federal regulations;
 - (c) bicycle and pedestrian paths and trails;
 - (d) recreation facilities, including structures, and improved lake or pond accesses;
 - (e) landscaping associated with a residential use;
 - (f) agriculture in accordance with 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; or
 - (g) any use exempted in subsection (2), above.
 - (4) The expansion or enlargement of any structure in existence prior to the effective date these bylaws and not in compliance with this Section is permitted with approval of the Board of Adjustment pursuant to Section 5.2 regarding Nonconforming structures.
 - (5) No alteration of the natural course of any stream shall be allowed unless a stream alteration permit has been issued by the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41. Such alterations within the Flood Hazard Area Overlay District are subject to state agency and municipal referral requirements under Section 7.1.
- (B) **Source Protection Areas.** In order to protect community water supplies, the following potential sources of contamination are specifically prohibited within designated Source Protection Areas, unless it is demonstrated to the satisfaction of the Board of Adjustment under conditional use review (Section 5.2) that no potential for contamination of a water supply exists:
- (1) gasoline and motor vehicle service and repair facilities;
 - (2) machine and body shops;
 - (3) car washes;
 - (4) the outdoor storage of road salt and other de-icing chemicals;

- (5) public or community wastewater treatment facilities;
- (6) fuel storage except for agricultural or residential use;
- (7) underground storage tanks;
- (8) solid waste disposal facilities and sanitary landfills;
- (9) dry cleaning, furniture stripping, metal plating, and photographic processing activities;
- (10) junk and salvage yards;
- (11) extraction and quarrying activities;
- (12) cemeteries;
- (13) lawn and garden stores;
- (14) power plants and substations; and/or
- (15) any other use which involves the generation, use, storage, treatment, transportation or disposal of potential contaminants greater than normal household use.

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

Section 3.13 Sign Regulations

(A) **Applicability.** A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign, except for signs which are specifically exempted from these provisions, or specifically prohibited as listed under Table 3.2, or the replacement of any sign face communicating a change in ownership, management or brand associated with any sign that meets all applicable standards of this section [See subsection (12)].

(B) **General Standards.** All signs, other than those specified in subsection (A) of Table 3.2, shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements pertaining to all signs:

- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise use in those districts where such uses are permitted.
- (2) There shall be only one free-standing or hanging wall mounted sign per principal business or service per lot front except as allowed for gasoline pricing signs in accordance with Section 4.12.
- (3) No sign located within the Central Business District and Village Neighborhood District shall exceed more than 16 square feet per face. The Board of Adjustment may, however, approve a sign of up to 25 square feet per face as a conditional use in accordance with Section 5.2.
- (4) No sign located within the Highway Mixed Use District or the Industrial District shall exceed 32 square feet per face..
- (5) No sign in the Compact Residential District, Rural Residential District or the Forest Reserve District shall exceed 9 square feet per face.
- (6) No sign, including mounted or freestanding supporting structures, shall exceed 16 feet in height. The Board of Adjustment may, however, approve a sign of up to 20 feet in height as a conditional use in accordance with Section 5.2.

- (7) No sign shall be closer than 10 feet to the nearest part of the traveled portion of any road, except within the Central Business District.
- (8) No sign shall be placed at any road intersection in a manner to obstruct the line of site from such intersection.

Table 3.2
Exempted & Prohibited Signs

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

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

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

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

- (9) Signs shall be illuminated so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for indirect lighting, provided that the light fixture is mounted on the top or side of the sign, is directed onto the sign surface, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.
- (10) Signs shall not be constructed to include blinking lights, moving parts, or any device capable of emitting noise unless specifically approved by the Board of Adjustment as a conditional use in accordance with section 5.2.
- (11) All signs shall be maintained in a secure and safe condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 7.5 may be issued with a request that any defect in the sign immediately is corrected.
- (13) No nonconforming sign may be replaced, expanded, or the message altered to advertise a different owner, management or brand, unless such altered sign is brought into conformance with these standards.
- (C) **Measurement.** The area of measurement of any sign shall be the total area of the sign face to the outer edge, including any supporting frames or panels. Signs consisting of freestanding characters shall include any intervening spaces (the entire message area) in the calculation of total sign area. The height of the sign shall be measured to the highest point of the supporting structure.

Section 3.14 Steep Slopes & Erosion Control

- (A) Development shall not take place on slope gradients in excess of 25% with the exception of limited site improvements necessary to facilitate development on contiguous land less than 25% gradient.
- (B) Accepted agricultural practices and forestry, as defined in Article 7, are exempted from this Section in accordance with Section 6.2

Section 3.15 Storage of Hazardous Materials

- (A) The storage of any highly flammable or hazardous liquid or gas in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines. All storage tanks shall comply with all applicable state and federal regulations.
- (B) All tanks (containing flammable liquids) located above-ground and having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than 1.5 times the capacity of the tanks surrounded.

ARTICLE 4. SPECIFIC USE STANDARDS

Section 4.1 Applicability

(A) The following standards apply to specified uses in all zoning districts in which such uses are allowed. Specified uses may be subject to conditional use review in accordance with Section 5.2. If there is a conflict between a standard in this section and a standard in another section of these bylaws, the more restrictive standard shall apply.

Section 4.2 Accessory Dwelling

(A) A dwelling unit may be allowed as an accessory to another principal use, subject to the following provisions, which also are intended to meet requirements for accessory apartments as set forth in the Act [§4412(1)].

(B) One attached or detached dwelling unit may be allowed as an accessory to a single family dwelling. Such accessory dwelling shall not exceed 800 square feet or 30% of the total existing living area of the principal dwelling, whichever is greater, and shall meet other applicable requirements under subsections (D) and (E), below.

(C) One caretaker's apartment which is accessory to a nonresidential use may be approved as an accessory to another use by the Board of Adjustment in accordance with Section 5.2. A caretaker's apartment shall be located within the Industrial District, be occupied by the owner or an employee of the principal use, and shall not exceed 800 square feet.

(D) All accessory dwellings shall:

- (1) meet setback requirements for principal structures for the district in which they are located; for nonconforming structures, the degree of nonconformance 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) be provided with off-street parking for the residents of the dwelling in accordance with Section 3.10.

(E) Any zoning permit issued for an accessory dwelling shall clearly state that the dwelling is permitted only as an accessory to the principal use of the property and shall be retained in common ownership. An accessory dwelling to a single family dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying to a two family dwelling, or to two single family dwellings if detached, 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 conversion to, or conveyance as, a principal dwelling.

Section 4.3 Adaptive Reuse of an Historic Structure

(A) Adaptive reuse is designed to provide for the continued viability of historic structures that have outlived their original agricultural, civic or industrial function, while retaining their historic character, by allowing additional uses within the current dimensions of such structures, including nonconforming structures, subject to conditional use review under Section 5.2 and the following provisions.

(B) Structures eligible for adaptive reuse in the Rural Residential (RR) District and Forest Reserve (FR) District are limited to historic buildings which:

- (1) have historical or architectural significance to the town, as determined by the Board of Adjustment from application information, listing on federal or state historic site registers or surveys, and/or evidence presented in hearing; and
- (2) are no less than 50 years old.

(C) Structures determined to be eligible for adaptive reuse in the Rural Residential (RR) District and Forest Reserve (FR) District may be considered for one or more of the following uses subject to conditional use approval under Section 5.2:

- (1) any use allowed within the district in which the structure is located;
- (2) multi-family dwelling (maximum of 4 dwelling units);
- (3) storage facility;
- (4) the processing and/or sale of agricultural or forest products (e.g., farm produce store, food cooperative, woodworking or furniture shop);
- (5) cultural facility (e.g., museum, theater, performance space); and
- (6) retail sales, limited to antiques, arts and crafts.
- (7) any use which legally occupied the structure as a pre-existing nonconforming use, even if the use was discontinued for a period in excess of one year.

(D) Structures eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District are limited to nonresidential structures which:

- (1) have historical or architectural significance to the town, as determined by the Board of Adjustment from application information, listing on federal or state historic site registers or surveys, and/or evidence presented in hearing;
- (2) are no less than 50 years old and are listed, or eligible for listing, on the *Vermont Historic Sites and Structures Survey for the Town of Hardwick*; and
- (3) have a minimum floor area of 800 square feet.

(E) Structures determined eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District may be put to one or more of the following uses:

- (1) any use allowed within the district in which the structure is located;
- (2) restaurant
- (3) retail store
- (4) cultural facility
- (5) indoor recreation
- (6) storage facility;

(F) Structures determined eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District may be granted the following modifications to standards contained within these bylaws, subject to conditional use approval under Section 5.2:

- (1) The Board of Adjustment may waive one or more parking requirements set forth in Section 3.10, provided the Board determines that the proposed use meets the standards set forth in Section 5.2 and that the waiver will not result in or cause unsafe conditions for motorists or pedestrians, and will not adversely impact surrounding properties.
 - (2) The Board of Adjustment may waive one or more dimensional standards, including residential density standards, set forth in Article 2, provided the proposed use meets the standards set forth in Section 5.2 and that the waiver will not result in or cause unsafe conditions for motorists or pedestrians, and will not adversely impact surrounding properties.
- (G) It also shall be demonstrated to the satisfaction of the Board of Adjustment for any adaptive reuse of an historic structure, regardless of the district within which it is located, that:
- (1) adequate water supply, septic system, and off-street parking capacity exist to accommodate the proposed use; and
 - (2) any proposed exterior renovations shall maintain the historic and architectural character of the structure, including those characteristics which resulted in the Board's determination that the structure is of historical or architectural significance to the town.

Section 4.4 Campers [Temporary Shelter]

(A) A camper (e.g., recreational vehicle, travel trailer) or other temporary shelter (e.g., tent, teepee, yurt) may be located, stored or parked on public or private property in accordance with the following requirements:

- (1) Campers and other temporary shelters may be parked in approved campgrounds (see Section 4.5), sales establishments and, for a specified period, on construction sites for use as a temporary structure in accordance with subsection (C).
- (2) A camper or temporary shelter may be stored on the lot of a single or two family dwelling and/or on an undeveloped parcel, provided that it is not located within required setbacks for the district in which it is located; is not occupied for dwelling purposes for more than 90 days within any one year period; and is not connected to the residential water or wastewater system.

(B) Any camper or temporary shelter that is used for dwelling purposes for more than 90 days within any one year period, or is sited so as not to be readily moveable, shall be deemed a dwelling and be subject to all zoning regulations applicable to accessory or single family dwellings.

(C) The Administrative Officer may issue a zoning permit to allow a temporary shelter, including a mobile home, to be occupied for dwelling purposes for not greater than one year to allow a property owner to reside on a parcel while constructing or rehabilitating a permanent dwelling. Such a temporary shelter shall be removed from the premises within one year of the issuance of the permit, unless the applicant obtains a one year extension, with the approval of the Board of Adjustment, in accordance with Section 5.2. No structure other than the permitted temporary shelter may be occupied as a dwelling on a single parcel for the period in which the temporary structure is occupied.

(D) Any wastewater or sewage generated by a camper shall be disposed of off-site in accordance with all applicable state and federal regulations.

Section 4.5 Campground

(A) A new or expanded recreational vehicle campground, improved seasonal campground, or primitive campground may be permitted in designated zoning districts subject to conditional use review under Section 5.2, applicable state agency referral requirements under Section 7.1, and the following provisions:

- (1) The parcel of land for a campground shall be no less than five acres in area or the minimum lot area for the district in which it is located, whichever is greater.
- (2) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A minimum 75 foot setback shall be required from any residential property. No building, camp site, parking or service area shall be located in setback areas.
- (3) Landscaping and/or fencing along property boundaries shall be required as appropriate for screening, security, and privacy.
- (4) Campgrounds shall provide lavatory, shower, and toilet facilities sufficient to serve all camp sites. Water and wastewater disposal systems must be designed and installed in accordance with applicable municipal and state regulations.
- (5) A campground shall provide sufficient access and parking for each camp site. Each camp site shall be at least 2,000 square feet in area.
- (6) The campground shall operate for a period not to exceed six months (180 days) during any calendar year, unless otherwise approved by the Board of Adjustment. Recreational vehicles may be stored on the property only if they are registered for highway use.
- (7) Adequate provision for the safe, sanitary disposal of trash and recyclables shall be provided on site.
- (8) Outdoor fires shall not result in a nuisance or threat to neighboring landowners, businesses or residents, nor endanger or adversely affect public health, safety or welfare.

(B) For substantially undeveloped, primitive camping areas (e.g., tenting areas, backcountry shelters) located on public or private lands, the Board of Adjustment may waive any or all of the requirements under subsection (A) if it is demonstrated to the Board's satisfaction that access, total lot area, camp site area, and setback distances are sufficient to:

- (1) support the proposed level of use, and
- (2) avoid any adverse impacts to water quality, natural areas, and adjoining properties and uses.

Section 4.6 Day Care Facility [Home Child Care, Day Care]

(A) In accordance with the Act [§4412(5)], a state registered or licensed child care home serving six or fewer children on a full time basis and up to four additional children on a part time basis, which is conducted within a single family dwelling by a resident of that dwelling, shall be considered a permitted use of the single family residence. No zoning permit is required for home child care providing it meets the requirements of this section.

(B) Nonresidential day care facilities, and those facilities operated from a dwelling which serve greater than six children full-time, may be permitted in designated zoning districts as a conditional use subject to review under Section 5.2.

Section 4.7 Extraction of Earth Resources

(A) The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource for may be allowed in designated districts subject to conditional use review under Section 5.2. In addition to the conditional use standards set forth in Section 5.2, for commercial extraction operations which are likely to impact surrounding properties due to the scale, intensity and timing of the extraction, the presence of fragile natural features (e.g., steep slopes, riparian land), and/or the relative density of nearby land uses, the Board of Adjustment may also require erosion control and site reclamation plans showing:

- (1) existing grades, drainage patterns and depths to bedrock and the seasonal high 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) a detailed plan for the restoration of the site, including final grading and revegetation.

(B) In granting approval, the Board may impose conditions with regard to any of the following factors:

- (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) In accordance with the Act [§4412(12), §4464(B)(6)] 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 re-grading, reseeding, reforestation or other reclamation activities that may be required. This provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, or their successors or assigns, to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

(D) This section shall not apply to normal agricultural and/or forestry operations, public (municipal and state) road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

Section 4.8 Home Businesses [Home Occupation, Home Industry]

(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 have an undue adverse effect upon the character of the surrounding neighborhood or area. No zoning permit is required for a home occupation. All home occupations shall comply with the following standards:

- (1) The home occupation shall be carried on by residents of the dwelling.

- (2) The home occupation shall not occupy a gross floor area greater than 30% of the combined gross floor area of the principal dwelling and accessory structure.
- (3) Exterior storage or displays, other than that characteristic of a residential use, is prohibited.
- (4) The home occupation shall meet all performance standards set forth in Section 3.11.
- (5) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use.
- (6) The home occupation shall meet all applicable sign standards (Section 3.13).
- (7) The outdoor storage of materials that are not customary of a residential use is prohibited.
- (8) On-site wholesale or retail sales shall be limited to products produced or services provided on the premises, which will be available to the public by appointment only.

(B) **Home Industry.** Home industry, as distinguished from “home occupation” 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 5.2, and the following provisions:

- (1) The home industry shall be conducted by residents of the dwelling, and up to three full-time nonresident employees (or full-time equivalent part-time nonresident employees).
- (2) The home industry shall be carried out within the principal dwelling or an accessory structure.
- (3) Exterior storage areas for materials and equipment associated with the home industry may be approved by the Board of Adjustment provided that such areas are clearly designated and are adequately screened from public view and neighboring properties. Designated storage areas shall meet the setbacks for the district in which the use is located, although the Board may require greater setbacks to avoid impacts on neighboring properties. 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).
- (4) The home industry shall not have an undue adverse effect upon the character of the neighborhood, or result in a change in the outward appearance of the dwelling or the accessory structure.
- (5) The home industry shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home industry is located.
- (6) Off-street parking shall be provided for resident, employee, customer and delivery vehicles, as well as all commercial vehicles or equipment associated with the home industry.
- (7) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.
- (8) Home industries shall meet all performance standards set forth in Section 3.11.
- (9) The home industry shall meet all applicable sign standards (Section 3.13).

(10) On-site wholesale or retail sales shall be limited to products produced or services provided on the premises.

(C) The zoning permit issued for a home industry shall clearly state that the home based business is permitted only as an accessory to the principal residential use of the property, and as such shall be retained in common ownership. A home occupation or home industry may be subdivided and/or converted for conveyance as a separate, principal use only if it is found to meet all current municipal regulations applying to such use, 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 subdivision, conversion, or conveyance of a home business as a principal use.

Section 4.9 Light Industry

(A) Light industry (as distinguished from home industry under Section 4.8) may be permitted in designated zoning districts subject to conditional use review under Section 5.2. Within the Central Business (CB) District and Highway Mixed-Use (HMU) District, light industry also shall meet the following provisions:

- (1) All industrial activities, and the maintenance and repair of vehicles and equipment, shall be conducted within an enclosed building or buildings.
- (2) The Board of Adjustment may limit the outdoor storage of materials, vehicles and heavy equipment shall be limited to a designated area, and may require that such area be screened year-round from the road and from neighboring properties.
- (3) Any area designated for the outdoor storage of materials shall be set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands and adjacent properties. All other setback and dimensional standards for the district in which the light industry is located shall apply. The Board of Adjustment may however, as a condition of approval, require greater setbacks based on specific site conditions to protect water quality and neighboring properties.
- (4) Industrial uses shall comply with all performance standards under Section 3.11; additional conditions, including conditions on the hours of operation, may be imposed as appropriate to protect public health, safety, and welfare, municipal facilities and services, and other public investments.
- (5) The on-site storage of hazardous materials shall require the specific approval of the Board of Adjustment. In approving such storage the Board shall require the submission of a hazard mitigation plan, prepared by the applicant, to ensure the protection of ground and surface waters and public safety in the event of a spill or release.
- (6) Sufficient landscaping and screening shall be provided along parcel boundaries and within the project site to protect adjacent properties from objectionable visual impacts. At a minimum, a landscaped buffer a minimum of 30 feet deep shall be located along all boundaries adjoining a residential property.

(B) The standards set forth in subsection (A), above, shall not apply to lands within the Industrial District.

Section 4.10 Mixed Use

(A) In designated zoning districts, more than one principal use may be allowed within a single building, or on a single lot, subject to the following provisions:

- (1) Each of the proposed uses is allowed as a permitted or conditional use within the zoning district in which the mixed use is located.
- (2) The uses in combination meet all applicable standards for the district in which the mixed use is proposed, including minimum lot, frontage and setback requirements; or the mixed use is part of a planned unit development (PUD) reviewed in accordance with Section 5.4.
- (3) The mixed use shall meet all applicable general regulations under Article 3, including but not limited to sign and parking requirements.

Section 4.11 Mobile Home Park

(A) Mobile home parks may be permitted in designated districts subject to conditional use review in accordance with Section 5.2 and the following provisions:

- (1) Proposed parks shall comply with all applicable state regulations, including regulations relating to water supply and wastewater disposal.
- (2) The parcel of land for a mobile home park shall have a minimum area of no less than five acres, or the minimum lot area for the district in which it is located, whichever is greater.
- (3) Each mobile home shall be located on a dedicated site of not less than 6,000 square feet in area. Each site shall be landscaped with two or more trees of a native species, which are at least two inches in diameter at chest height for deciduous trees, or at least eight feet in height for coniferous trees.
- (4) Mobile home parks shall meet minimum setback requirements along their perimeter for the district in which they are located. Setback areas shall not be included in the calculation of recreation land or open space under Subsection (9). A strip of land 25 feet deep shall be maintained as a landscaped buffer along all property boundaries.
- (5) Each mobile home shall be set back a minimum of 10 feet from adjoining mobile home sites.
- (6) All roads within a mobile home park shall comply with Section 6.6, and adequate walkways shall be provided.
- (7) Parking shall be provided in accordance with Section 3.10.
- (8) A minimum of 100 square feet of indoor storage space (e.g., storage shed, or a central storage building) shall be provided for each mobile home located within the park.
- (9) A minimum of 20% of the total land area in any mobile home park shall be set aside for common recreational use or open space.

(B) The mobile home park owner, or designated operator, as a condition of Board of Adjustment approval, shall:

- (1) maintain all park buildings, roads, parking areas, paths, utilities, infrastructure, landscaping, open space and common areas in good condition, and shall provide for the regular collection and removal of recyclables, waste and garbage; and
- (2) remove snow from all park roads and service areas.

Failure to meet these operation and maintenance requirements shall constitute a violation of permit conditions and these regulations, subject to enforcement action under Section 7.5.

(C) Changes or alterations to park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions. The owner of a mobile home within an approved mobile home park may apply for a zoning permit under Section 7.1 for a deck or accessory structure which meets site setback requirements under Subsection (A), without additional approval by the Board of Adjustment under Section 5.2. The replacement of a permitted mobile home within an approved mobile home park shall require a zoning permit issued by the Zoning Administrator in accordance with Section 7.1 to ensure ongoing compliance with all conditions of conditional use approval.

Section 4.12 Motor Vehicle Service & Gas Stations

(A) Motor vehicle service stations and gas stations may be allowed in designated districts subject to conditional use review under Section 5.2 and the following requirements:

- (1) No vehicle may be parked, stored or displayed within the setback areas for the district in which the business is located.
- (2) There shall be no more than two (2) curb cuts providing access to and from adjoining roads. On corner or through lots, one or both accesses may be limited to the secondary road. The width of a curb cut shall not exceed 35 feet.
- (3) The service and/or repair of motor vehicles shall be conducted within an enclosed structure.
- (4) All buildings, equipment, service, parking and storage areas shall be set back at least 150 feet from streams, surface waters and wetlands. The setback area shall be maintained as a vegetated buffer. The required setback may be increased as appropriate to protect water quality, based on local site and drainage conditions.
- (5) Gasoline pumps shall be located not less than 15 feet from any road right-of-way. All pumps, lubricating and other service equipment shall be located at least 35 feet from side and rear lot lines.
- (6) Gasoline service stations, in addition to the signs allowed under Section 3.13, may have one pricing sign which does not exceed 12 square feet in area and/or pump-top pricing signs, each not to exceed 2 square feet in area.
- (7) Gas station canopies shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum ceiling height necessary to meet applicable state and federal safety requirements. Canopy design, including materials and roof pitch, shall be compatible with surrounding buildings.

- (8) Light fixtures mounted on station canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded or skirted so that direct illumination is focused exclusively on the underside of the canopy. Lights shall not be mounted on the top or sides (fascias) of canopies, nor shall canopies be internally illuminated.
- (9) Gasoline stations which include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use, and as such be required to meet all zoning provisions pertaining to retail uses for the district in which they are located, including but not limited to additional sign, lot size and/or parking requirements.

Section 4.13 Protected Public Uses

(A) In accordance with the Act [§4413(a)], reasonable provision has been made for the following uses within designated districts, shown in Table 4.1 which may be regulated only with respect to size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements and only to the extent that regulations do not have the effect of interfering with the intended functional use.

TABLE 4.1 PROTECTED PUBLIC USES	
Facility	Specified District(s)
Public and private hospitals.	CB, VN, CR
Regional solid waste management facilities certified by the State [10 V.S.A., Chapter 159].	RR (see Landfill)
Public utility power generating plants and transmission lines [see Public Utility].	All Districts
Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].	I
State or community owned and operated institutions and facilities [see Public Facility].	All Districts
Public and private schools and other educational institutions certified by the Vermont Department of Education.	CB, VN, HMU, CR, RR
Churches, convents and parish houses [see Place of Worship]	CB, VN, HMU, CR, RR

Section 4.14 Salvage Yard

(A) New or expanded salvage yards may be permitted within designated zoning districts subject to conditional use review under Section 5.2 and the following requirements:

- (1) Salvage yards shall meet all setback standards for the district in which the yard is located, and shall be set back at least 75 feet from surface waters and wetlands. Required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties.
- (2) Yards shall be screened year-round from public view and from adjoining residential properties. Additional landscaping, fencing or other forms of screening may be required as appropriate. No vehicles associated with the business, or any other waste, scrap, parts or materials shall be stacked, piled or stored higher than the fence or screen.

- (3) Salvage yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties. Exterior lighting shall be the minimum required for security and safe operation.
 - (4) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
 - (5) All salvage yards shall be licensed in accordance with State of Vermont regulations pertaining to junk yards, and shall be responsible for all upkeep and maintenance of fences, screening, and other required site improvements, and the proper storage of salvaged and hazardous materials, as required under municipal and state regulations, and associated conditions of approval.
 - (6) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies.
- (B) In addition to application requirements under Section 5.2, the applicant for a new or expanded salvage yard shall submit a description of existing and proposed operations, including storage areas, all equipment to be used on-site, and a site development plan that includes the following information:
- (1) the extent in area of existing and/or proposed salvage yard operations, including all storage and processing areas, and distances from property boundaries, public streets, wetlands, surface waters and public and private wells on-site and in the vicinity;
 - (2) site contours that show existing and proposed grades and drainage patterns,
 - (3) test boring results indicating soil types, and depths to bedrock and seasonal high water tables within the proposed area of operation; and
 - (4) existing and/or proposed ground water monitoring well locations, if any.
- (C) All materials shall be removed from the site within twelve months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean-up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required as a condition of approval.

Section 4.15 Telecommunications Facility

- (A) **Purpose.** The purpose of these regulations is to protect the public health, safety, general welfare and scenic character of the Town of Hardwick, while accommodating the communication needs of residents and businesses. The intent of these regulations is to:
- (1) preserve the character and appearance of the town while allowing adequate services and coverage to be developed;
 - (2) protect the scenic, historic, environmental and natural resources of the town;
 - (3) provide standards as requirements for the siting, design, appearance, construction, operation, and removal of telecommunications facilities;
 - (4) minimize tower and antenna proliferation by requiring the co-location and sharing of existing telecommunications facilities wherever feasible and appropriate; and
 - (5) facilitate the provision of telecommunications services to residents and businesses in town.
- (B) **Federal Limitations.** In accordance with federal law, these regulations shall not have the effect of prohibiting personal wireless services, unreasonably discriminating among providers of functionally equivalent services, nor regulating wireless telecommunications facilities based on emissions which are subject to and in compliance with Federal Communications Commission (FCC) regulations.

(C) **Applicability.** Wireless telecommunications facilities shall include all facilities subject to licensing or regulation by the FCC, including towers, associated accessory structures, buildings and/or equipment, except as specifically exempted under subsection (D). New, modified or expanded wireless telecommunication facilities, except as specified for small scale facilities under subsection (G), may be allowed in designated zoning districts as conditional uses subject to review under Section 5.2 and the requirements of this section. However:

(D) **Exemptions.** 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) Citizens band radio antennas operated by federally licensed amateur radio operators 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.
- (3) Replacement of telecommunications facilities operated by public (municipal, state or federal) or not-for-profit emergency service providers (e.g., police, fire, ambulance) in association with their duties.

(E) **Application Requirements.** In addition to application requirements under Section 5.2, applications for new towers shall also include the following:

- (1) The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
- (2) The name, title, address and telephone number of the persons to whom correspondence concerning the application should be sent.
- (3) The name, address, and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located.
- (4) The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.
- (5) A vicinity map showing the entire vicinity within a 1,000 foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights of way needed for access from a public way to the Facility.
- (6) The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.

- (7) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).
- (8) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
- (9) Construction sequence and time schedule for completion of each phase of the entire project.
- (10) A report from a qualified engineer that:
 - (a) Describes any tower's design and elevation,
 - (b) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,
 - (c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
 - (d) In the case of new Facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - (e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - (f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
 - (g) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
 - (h) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
 - (i) Includes such other information as determined by the Board of Adjustment to evaluate the application.
- (11) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
- (12) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
- (13) To the extent required by the National Environmental Policy ACT (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

(F) **Consultants** Upon submission of an application for a Telecommunication Facility permit, the Board of Adjustment may require a report by consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Board of Adjustment. The consultant(s) shall work at the Board of Adjustment's direction and shall provide the

Board of Adjustment such reports and assistance as the Board of Adjustment deems necessary to review an application.

(G) **Balloon Test** The Board of Adjustment may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Board of Adjustment, in writing of the date, time and location of the test at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Board of Adjustment.

(H) **Criteria for Approval and Conditions** An application for a Telecommunication Facility permit shall be approved after a hearing when the Board of Adjustment finds all the following criteria have been met:

- (1) The Facility will not be built on speculation. If the applicant is not a Telecommunication Service Provider, the Board of Adjustment may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Telecommunication Facility on lands owned or leased by the applicant.
- (2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.
- (3) No wireless telecommunication facility shall be located within 500 feet of an existing residence.
- (4) The minimum distance from the base of any tower to any property line is not less than 100% of the total elevation of the tower, including antenna or equipment, unless otherwise permitted by the Board of Adjustment in accordance with one of the following:
 - (a) if tower design and construction guarantees that, if it collapses, it will collapse inwardly upon itself, and that no liability or risk to adjoining private or public property shall be assumed by the municipality; 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) The tower including attached antennas does not exceed a height of 180 feet.
- (6) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, this bylaw, or as needed for the safe operation of the facility.
- (7) The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Board of Adjustment may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Board of Adjustment to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

- (8) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
- (9) The applicant will maintain adequate insurance on the Facility.
- (10) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Board of Adjustment may condition a permit on the provision of appropriate fencing.
- (11) The proposed equipment cannot be reasonably collocated at an existing Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Board of Adjustment shall consider the following factors:
 - (a) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - (b) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
 - (c) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
 - (d) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
 - (e) Collocation of the equipment upon existing tower would cause an undue aesthetic impact.
- (12) The Facility provides reasonable opportunity for collocation of other equipment.
- (13) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- (14) The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Board of Adjustment shall consider the following factors:
 - (a) The results of the balloon test, if conducted.
 - (b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - (c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - (d) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
 - (e) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
 - (f) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
 - (g) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
 - (h) The sensitivity or unique value of a particular view affected by the Facility.
 - (i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

- (15) The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
- (16) The Facility will not generate undue noise.
- (17) The extent to which utility lines (e.g. power) serving telecommunications facilities follow access roads and does not involve extensive clearing; the Board of Adjustment may require that such utilities be buried where they are likely to otherwise have an adverse visual impact.

(I) **Small Scale and Temporary Facilities.** Notwithstanding the requirements of Article 2, the following may be permitted in any zoning district by the Administrative Officer without conditional use approval:

- (1) Small scale wireless telecommunications equipment, including antennas, microcells or repeaters, which are to be installed on existing towers, utility poles, or other structures; or the installation of ground facilities less than 20 feet in height, provided that:
 - (a) no such device is located within 50 feet of an existing residence;
 - (b) no changes are made to the height or appearance of such structure except as required for mounting;
 - (c) the height of the facility as mounted does not extend the total height of the structure by more than 10 feet;
 - (d) no panel antenna shall exceed 72 inches in height or 24 inches in width;
 - (e) no dish antenna shall exceed 3 feet in diameter; and
 - (f) any accompanying equipment shall be screened from view.
- (2) Wireless communications facilities designed for temporary use, provided that:
 - (a) the temporary facility is permitted for the duration of the intended use or event, as specified in the permit, which shall not exceed 60 days, and is removed immediately upon the expiration of the permit,
 - (b) the height of the facility does not exceed 50 feet from grade, and
 - (c) the facility complies with all other applicable provisions of these regulations.

(J) **Continuing Obligations for Wireless Telecommunication Facilities** The owner of a Telecommunication Facility shall, at such times as requested by the Board of Adjustment, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Board of Adjustment, shall mean that the Facility has been abandoned.

(K) **Removal of Abandoned or Unused Facilities** Unless otherwise approved by the Board of Adjustment, an abandoned or unused Telecommunication Facility shall be removed within 90 days of abandonment or cessation of use. If the Facility is not removed within 90 days of abandonment or cessation of use, the Board of Adjustment may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

Unused portions of a Telecommunication Facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.

Section 4.16 Temporary Structure or Use

(A) **Temporary Structure.** Structures used for temporary office or storage space (e.g., trailers, mobile homes), or for special events requiring a permit under Subsection (B), may be allowed as a temporary accessory structure to a preexisting or permitted use. Such structures shall be set back a minimum of 5 feet from all property boundaries and shall not be used for dwelling purposes unless specifically approved under Section 4.2. A zoning permit is required for a temporary structure that is located on a parcel for greater than one year. All temporary structures shall be dismantled and/or removed after one year, or the owner shall obtain a zoning permit in accordance with Section 7.1 and all relevant standards contained in these bylaws.

(B) **Temporary Dwellings.** Temporary dwellings and campers are subject to Section 4.4.

(C) **Special Events.** Special events (e.g., weddings, receptions, concerts, festivals, fairs and other cultural events, trade and antique shows), may be allowed as a temporary use, provided that such use occurs for no more than seven days within any twelve month period, and adequate off-street parking and circulation, sanitary and trash collection facilities are provided. Special events may be issued a zoning permit by the Zoning Administrator, for a specified period of time not to exceed one year from the date of issuance, with the provision that the use will be discontinued upon the expiration of the permit. In addition:

- (1) Family or household events associated with a residential use (e.g., weddings, reunions) are exempt from this provision, and shall not require a zoning permit.
- (2) Special events with an expected attendance of over 100 people, or extending more than seven days within a twelve month period, shall be subject to conditional use review by the Board of Adjustment under Section 5.2 prior to the issuance of a zoning permit.
- (3) No zoning permit shall be issued for any event or use which also requires the approval of the Hardwick Selectboard and/or the Hardwick Chief of Police until such approval is issued.

ARTICLE 5. DEVELOPMENT REVIEW

Section 5.1 Applicability

(A) **Conditional Use Review** standards shall apply to those uses designated as conditional uses in Article 2, or as otherwise specified under Articles 3 (General Regulations) and 4 (Specific Use Standards). Such uses are subject to conditional use review by the Board of Adjustment under Section 5.2.

(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 falls within the Flood Hazard Area Overlay District. Such development is subject to review under Section 5.3. In the event a use is subject to conditional use review under Section 5.2 and flood hazard area review, the Board of Adjustment may conduct both review processes concurrently.

(C) **Planned Residential Development (PRD)** review procedures and standards may be applied by the Board of Adjustment in accordance with Section 5.4 at the request of the applicant for any parcel which meets the minimum lot size for the district within which it is located.

Section 5.2 Conditional Use Review

(A) **Application Requirements.** In addition to the application requirements under Section 7.1 for a zoning permit, an application for conditional use review by the Board of Adjustment shall include associated fees, and one original and two complete copies of the following information as applicable to the development:

- (1) Applicant information, including the name and address of the applicant, the property owner of record, and the person or firm preparing the application and supporting materials.
- (2) The date of the application (to also be shown on all supporting materials).
- (3) A general location map (on a USGS topographic map or Vermont orthophoto base) showing the location of the proposed development in relation to zoning districts, public highways, drainage and surface waters, and adjoining properties and uses.
- (4) A site plan, drawn to scale, which shows:
 - a. north arrow, scale, title (project name), date, and the name of the preparer;
 - b. property lines, dimensions and required setback distances;
 - c. existing site features, including ridgelines, hill tops and areas of steep slope (greater than 25%); drainage, surface waters, wetlands, and associated setback areas; vegetation and tree lines; historic features (e.g., structures, cellar holes, stone walls), and designated critical habitat, flood hazard and source protection areas;
 - d. the location (footprints) of existing and proposed structures, including all buildings, other structures, signs, and/or walls;
 - e. existing and proposed rights-of-way and easements,
 - f. existing and proposed roads, driveways, parking and loading areas, and pedestrian paths;
 - g. existing and proposed utility lines, water supply and wastewater disposal areas;
 - h. proposed site grading (cut and fill), stormwater management, and erosion control measures; and
 - i. proposed outdoor lighting, landscaping and screening.
- (5) Additional information as may be requested by the Board of Adjustment to determine conformance with these regulations, including one or more of the following:

- a. elevation contours, at intervals to be specified by the Board;
- b. existing and proposed structural elevations;
- c. an “elevation certificate” as required under the National Flood Insurance Program for development within flood hazard areas;
- d. stormwater, erosion control, lighting, landscaping, buffer, forest or wildlife management plans; and/or
- e. traffic, visual, and fiscal impact assessments.

(B) **Waivers.** The application will not be considered complete by the Board of Adjustment until all required materials have been submitted. One or more application requirements may be waived by the Board, at the request of the applicant, should the Board determine that the information is unnecessary for a comprehensive review of the application. Waivers shall be issued by the Board in writing at the time the application is accepted and deemed complete.

(C) **Technical Review.** To assist in its evaluation of an application, the Board may require the submission of technical analysis of one or more aspects of a proposed development, prepared by a qualified professional, to be funded by the applicant.

(D) **Review Procedures.** At the time an application is deemed complete, the Board of Adjustment shall schedule a public hearing, warned in accordance with Section 7.6. The Board may recess the hearing (adjourn to a time and date) as needed to allow for the submission of testimony and evidence by the applicant or other interested parties. The Board shall act to approve, approve with conditions, or deny an application for a conditional use within 60 days of the date of adjournment of the final public hearing. The written decision shall include findings, any conditions of approval or reasons for denial, and provisions for appeal to the Environmental Court. The failure of the Board to act within this 60 day period shall be deemed approval.

(E) **General Review Standards.** Conditional use approval shall be granted by the Board of Adjustment upon finding that the proposed development will not result in an undue adverse effect on any of the following:

- (1) **The capacity of existing or planned community facilities and services.** The Board shall consider the demand for community facilities and services that will result from the proposed development in relation to the existing and planned capacity of such facilities and services, and any adopted capital budget and program currently in effect. The Board may request information or testimony from other local officials to help evaluate potential impacts on community facilities and services. To minimize adverse impacts to community facilities and services, the Board may impose conditions as necessary on the provision of facilities, services or related improvements needed to serve the development, and/or the timing and phasing of development in relation to planned municipal capital expenditures or improvements.
- (2) **Character of the area affected.** The Board shall consider the design, location, scale, and intensity of the proposed development in relation to the character of the neighborhood or area affected by the proposed development, as determined from zoning district purpose statements, municipal plan policies and recommendations, and evidence submitted in hearing. The Board may impose conditions as necessary to eliminate or mitigate adverse impacts to the area, neighboring properties and uses, including conditions on the design, scale, intensity, or operation of the proposed use.
- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of traffic generated by the proposed development on the function, capacity, safety, efficiency, and maintenance of roads, highways, intersections, bridges, and other transportation infrastructure in the vicinity of the project. The Board may request information or testimony from the Selectboard, Road Commissioner or state officials to help evaluate potential impacts on town and state highways in the

vicinity of the development. A traffic impact study also may be required to determine potential adverse impacts and appropriate mitigation measures. The Board may impose conditions as necessary to ensure that a proposed development will not result in unsafe conditions for pedestrians or motorists, including the installation of infrastructure improvements or accepted traffic management and control measures as required by the development.

- (4) **Bylaws in effect.** The Board shall determine whether the proposed development conforms to other applicable municipal bylaws and ordinances currently in effect including, but not limited to, town road, health, and facility (e.g., sewer, water) ordinances. The Board shall not approve proposed development that does not meet the requirements of other municipal regulations in effect at the time of application.
 - (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 either by diminishing their future availability, or by interfering with access to such resources. Conditions may be imposed as necessary to ensure the long-term availability of, and continued access to, renewable energy resources.
- (F) **Specific Review Standards.** In addition to the general standards under Section (E), the Board may also consider and attach specific conditions to conditional use approval as appropriate to avoid, minimize or mitigate the adverse impacts of a proposed development, including:
- (1) **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). In addition, the Board may specify as a condition of approval lower densities of development, increased frontage or setback distances, increased buffer areas, and/or designated building envelopes that limit the area to be used for structures and parking, as necessary to avoid or minimize adverse impacts to the character of the area, to significant natural and historic resources identified in the town plan or through site investigation, or to adjoining properties and uses.
 - (2) **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. In determining appropriate performance standards for a particular use, the Board may consult with state regulatory officials and consider accepted industry standards. In addition, the Board may limit the hours of operation so that the proposed use is compatible with the character of the neighborhood and area.
 - (3) **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. The Board, in consultation with the Selectboard and state, may impose conditions as necessary to ensure the safety of vehicular and pedestrian traffic on and off-site, including but not limited to conditions on the location and number of access and intersection locations, requirements for shared access and/or parking, and provisions for emergency access, parking, service and loading area, snow storage, pedestrian paths and transit facilities (e.g., sheltered bus stops), as appropriate.
 - (4) **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. Particular consideration will be given to the preservation of existing vegetation, visibility of the development from public vantage points (including roads), and the adequacy of landscaping and screening materials to meet seasonal weather and soil conditions. A landscaping management plan, and surety

for up to three years that is acceptable to the Board of Adjustment, may be required to ensure that required landscaping and screening is properly installed and maintained.

- (5) **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. Development shall be sited and designed to minimize stormwater runoff and erosion during all phases of development. The Board may require the submission of a stormwater management and/or erosion control plan, prepared by a qualified professional, that incorporates accepted management practices recommended by the state in the *Vermont Stormwater Management Manual* and the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*, as most recently amended.

(G) **District Standards.** In addition to district standards that pertain to all uses under Article 2, the following standards also shall apply to conditional uses within specified zoning districts:

- (1) **Central Business District.** Within the Central Business District, development shall be designed in accordance with the following standards:
- a. The use of front yards shall be limited to landscaping, pedestrian paths and associated pedestrian amenities (e.g., street furniture, pedestrian scale lighting and signs) and driveways. Outdoor storage, parking and loading areas shall not be located within front yards unless the Board finds that the property is a pre-existing building or that no other practical alternative exists.
 - b. Buildings should be oriented toward and relate to, both functionally and visually, public streets and/or common greens, parks or plazas, and not be oriented toward parking lots. The front facade should include a main entry-way and pedestrian access to the street. Buildings located on corner lots shall either be oriented toward the major street or include a corner entrance. The Board may impose a maximum setback, relative to adjacent buildings, to achieve a consistent streetscape.
 - c. New buildings and additions to existing buildings shall be designed to be compatible with, and not stand in contrast to, historic structures located within the district with regard to building scale, massing, materials, orientation and rhythm of openings.
- (2) **Village Neighborhood District.** Within the Village Neighborhood District development shall be designed in accordance with the following standards:
- a. The use of front yards shall be limited to landscaping, pedestrian paths and associated pedestrian amenities (e.g., street furniture, pedestrian scale lighting and signs) and driveways. Outdoor storage, parking and loading areas shall not be located within front yards unless the Board finds that the property is a pre-existing building or that no other practical alternative exists.
 - b. Buildings should be oriented toward and relate to, both functionally and visually, public streets and/or common greens, parks or plazas, and not be oriented toward parking lots. The front facade should include a main entry-way and pedestrian access to the street. The Board may impose a maximum setback, relative to adjacent buildings, to achieve a consistent streetscape.
 - c. The scale and massing of new buildings, including height, width, street frontage and roof type, shall be compatible and harmonious with surrounding residential 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 district.
- (3) **Highway Mixed-Use District.** Within the Highway Mixed Use District, development with frontage on state highways (Route 15, Route 14, Route 16) shall be designed in a manner that meets the following standards:
- a. Within and contiguous to parking areas, landscaping shall emphasize the use of shade trees to provide a tree canopy, provide separation between parking spaces to avoid large expanses of parking and minimize the visibility of parking areas from off-site. Suitable locations for shade trees include along walkways, in center islands, in between parking spaces and clustered in appropriate locations.

- b. A landscaped strip of at least twenty (20) feet shall be provided parallel to the road, which may be crossed by driveways and sidewalks. Form, location, and composition of the landscaped strip shall be shown on the site plan and approved by the Board of Adjustment.
- (4) **Rural Residential and Compact Residential Districts.** Within the Rural Residential and Compact Residential Districts, development shall be designed in accordance with the following standards:
- a. Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the scenic and rural qualities of the site as experienced both on-site and from other vantage points in the Town.
 - b. Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these features to the extent feasible in order to minimize the loss of productive agricultural and forest land, and to avoid physical and visual impacts.
- (5) **Forest Reserve District.** Development within the Forest District should not detract from the site's scenic qualities, nor obstruct significant views from public vantage points, and should blend in with the existing landscape. Development shall take into consideration existing contours and forest cover to ensure that adequate opportunities exist for the siting and natural screening of development to minimize site disturbance and visual impacts. The Board may require the submission of a visual impact assessment for conditional uses within this district, and/or require additional screening of structures consistent with the natural and built environment.

Section 5.3 Flood Hazard Review

(A) **Application.** An application for flood hazard review, including a site development plan prepared in accordance with subsection 5.2(A), above, and associated fee, shall be submitted to the Zoning Administrator for consideration at the next available regularly scheduled meeting of the Board of Adjustment.

(B) **Review Procedure.** The Board of Adjustment shall schedule a public meeting to consider the application submitted to determine whether said application is complete and, upon finding the application to be complete, to determine whether the proposed use or structure conforms to the flood hazard review standards set forth below. The Board of Adjustment shall act to approve, approve with conditions, or disapprove any application within 60 days of the date on which a completed application is received, and shall issue a written decision, to include findings, any conditions, and provisions for appeal. Failure to act within 60 days of receipt of the completed application shall be deemed approval.

(C) **General Standards.** The Board of Adjustment may consider and impose appropriate safeguards, modifications and conditions for development within the Flood Hazard Area Overlay District in accordance with the following standards:

- (1) 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.
- (2) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities; and to provide adequate drainage to reduce exposure to flood hazards.
- (3) 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. constructed with materials resistant to flood damage;
 - c. 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.
- (4) 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.
 - (5) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
 - (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (7) 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.
 - (8) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
 - (9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection (8).
 - (10) Existing buildings to be substantially improved for nonresidential purposes shall either meet the requirements of subsection (8), or 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 flood-proofed 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.
 - (11) 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.
 - (12) Recreational Vehicles or job site trailers placed on sites within Zones A1-A30, AH and AE, as designated on the FIRM maps, shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) 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).

- (13) Accessory Structures: An accessory structure that represents a minimal investment may be built below BFE provided the structure:
- a. Shall not be used for human habitation;
 - b. Shall be designed to have low flood damage potential;
 - c. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - d. Shall be firmly anchored to prevent flotation which may result in damage to other structures; and
 - e. Shall have service facilities such as electrical and heating equipment elevated or flood proofed.
- (Source: FMA memo dated July 13, 1977.)

Section 5.4 Planned Residential Developments

(A) **Purpose.** In accordance with the Act [§4417], Planned Residential Developments (PRDs) are permitted in all zoning districts to allow for innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:

- (1) increase density, reduce lot size and/or facilitate the adequate and economical provision of streets and utilities to provide housing in a cost effective manner;
- (2) cluster residential development to preserve and maintain open space;
- (3) protect significant natural, cultural or scenic features as identified in the Hardwick Town Plan, or through site investigation; and/or,
- (4) allow for creative design and layout of development, an efficient use of land, and to provide for the integrated mix of housing types.

(B) **Review Procedure.** A PRD shall be reviewed concurrently with Major Subdivision Review procedures as set forth in Section 6.3. In addition to the application requirements specified under Section 6.3, an application for PRD approval shall include a statement describing all proposed modifications, changes or supplements to existing bylaw requirements. Modifications of these bylaws approved by the Board of Adjustment shall be noted in writing and appended to a plat depicting the project to be filed in the Hardwick Land Records. All other provisions of these bylaws not specifically modified shall remain in effect and be applicable to the project.

(C) **Coordination with Conditional Use Review.** Review and approval of a PRD involving the development of one or more conditional uses under this Section shall not exempt the proposed development from review under Section 5.2. The Board of Adjustment may review and approve one or more conditional uses concurrently with granting PRD approval, or may require the submission of a conditional use application subsequent to PRD approval.

(D) **General Standards.** The modification of zoning regulations by the Board of Adjustment may be permitted in accordance with the following standards:

- (1) The PRD shall be consistent with the Hardwick Town Plan and all other applicable municipal regulations and ordinances currently in effect. The PRD shall also meet all local and state regulations for sewage disposal and the protection of water quality.
- (2) The PRD shall represent an effective and unified treatment of the development site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland,

stream bank, floodplain and lake shore areas; significant topographic features, including hilltops and ridgelines; areas of steep slope or shallow soil; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; natural and critical habitat areas; and open spaces, including scenic views and vistas.

- (3) The Board of Adjustment 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 the reservation of no less than 50% of the remaining land as open space.
- (4) 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 Board of Adjustment. The Board may allow other setback standards, such as zero setbacks from lot lines, as part of PRD approval.
- (5) Provision shall be made for the preservation of open space. Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The Board of Adjustment shall approve such easement. Preserved open space may remain in single ownership, subject to easement conditions and appropriate land management (e.g., forestry, agriculture). Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. The Board shall approve the location, size and shape of lands set aside to be preserved for open space in accordance with the following:
 - a. Open space land shall provide for the protection of identified resources, including farmland, productive forest, wildlife habitat, natural areas, aquifer protection areas, surface waters, stream banks, historic and archaeological sites, and scenic views and vistas;
 - b. Designated open space may include the portion of a single lot which is characterized by one or more of the above referenced features, or may encompass the contiguous boundaries of the above referenced feature located on multiple lots;
 - c. The location, shape, size and character of the open space shall be suitable for its intended use. Generally, open space shall be at least 50% of the total area for projects involving a parcel(s) of twenty-five (25) acres or more. For smaller parcels, open space should be in proportion to the size and scope of the project, and its intended use;
 - d. Open space shall be suitably improved and/or maintained for its intended use, except for open space containing natural or cultural resources worthy of preservation that may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. The Board as appropriate may require management plans for forests and/or wildlife habitat;
 - e. Open space land shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels; and
 - f. Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Board, that they will in no way disrupt or detract from the values for which the open space is to be protected.
- (6) The total number of dwelling units shall not exceed that which would be permitted in the Board of Adjustment's judgement if the parcel were subdivided into buildable lots in conformance with the district minimum lot area required for single family dwellings. However, the number of dwelling units allowed in a PRD may, at the discretion of the Board of Adjustment, be increased in accordance with the following:

- a. The Board may grant a density increase of up to 25% of the allowable number of units in instances in which a significant portion (50% or greater) of the site is preserved as open space and/or the Board determines that the PRD reflects an exceptional site design that will result in the preservation of important natural resources and the creation such amenities as pedestrian paths, parkland and/or playgrounds; *or*
 - b. The Board may grant a density increase of up to 50% of the allowable number of units in instances in which not less than 50% of the total number of dwelling units created are affordable housing units, as defined in Article 8.
- (7) Where a district boundary line divides a parcel, the Board of Adjustment may allow the development of a single PRD with a total density based on the combined allowable density of each district.
- (8) 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 Board of Adjustment's judgement, if the land were subdivided into lots in conformance with district regulations.
- (9) 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 Board of Adjustment, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached.
- (F) **District Standards.** Within the Rural Residential and Forest Reserve Districts, dwellings may be comprised of one or more state licensed residential care home serving not more than 6 persons who are developmentally disabled or handicapped, and such dwellings may be clustered so that they are located within 1,000 feet of each other in accordance with the standards set forth in this Section and the approval of the Board of Adjustment under Section 5.2.

ARTICLE 6. SUBDIVISION REVIEW

Section 6.1 Applicability

(A) Whenever any subdivision of land is proposed, subdivision review and approval is required prior to:

- conveying or leasing of a subdivided parcel,
- grading, clearing, construction or installation of subdivision site improvements,
- applying for a zoning permit for the development of any subdivided parcel, or
- filing a subdivision plat in the land records of the town.

Subdivision of Land: The division of any parcel of land into two or more parcels for the purpose of sale, transfer, lease or development. The term includes the resubdivision of a previously subdivided parcel, and the development of a parcel as a planned residential development.

Such approval shall be granted by the Zoning Administrator or Planning Commission in accordance with the procedures and standards set forth below.

(B) **Exemptions.** The following are specifically exempted from subdivision review under this article:

- (1) parcels leased for agricultural or forestry purposes where no permanent roads or structures are established,
- (2) rights-of-way or easements which do not result in the subdivision of land, and
- (3) boundary adjustments between existing parcels which do not create new or nonconforming lots.

(C) **Minor & Major Subdivisions.** For the purposes of these regulations, subdivisions of land are defined as “minor” or “major” subdivisions, as follows:

(1) **Minor subdivisions**, to be reviewed by the Zoning Administrator under Section 6.2 include:

- a. the subdivision of land, or the resubdivision of a previously subdivided parcel, which results in the creation of a total of three or fewer lots within any five year period, regardless of any change in ownership; or
- b. an amendment to an approved subdivision which does not substantially alter the subdivision, nor result in the creation of a major subdivision.

(2) **Major subdivisions**, to be reviewed by the Planning Commission under Section 6.3 include:

- a. the subdivision of land, or the resubdivision of a previously subdivided parcel (e.g., a minor subdivision) which results in the creation of a total of four or more lots within any five year period and/or involves the construction of a new road;
- b. an amendment to an approved subdivision which substantially alters the subdivision or conditions of approval, or which results in the creation of a major subdivision or a new road;
- c. a planned residential development; and
- d. the creation of a lot which does not meet minimum frontage or access requirements, which is subject to approval under Section 3.3.

(D) **Coordination with Planned Residential Development Review.** Applications for planned residential developments (PRDs) shall be reviewed concurrently by the Planning Commission as major subdivisions in accordance with Section 6.3 and associated PRD requirements under Article 5.4.

Section 6.2 Minor Subdivision Review

(A) **Zoning Permit Requirement.** A zoning permit issued by the Zoning Administrator in accordance with Section 7.1 is required for all minor subdivisions. The zoning permit issued for a minor subdivision under these regulations shall be separate from the zoning permit issued for the subsequent development of a subdivided parcel, and shall be identified as such; however zoning permits may be issued by the Zoning Administrator concurrently for the minor subdivision of land, and for the subsequent development of a subdivided parcel. Any decision or act of the Zoning Administrator with regard to a minor subdivision may be appealed to the Board of Adjustment in accordance with Section 7.3. In acting on any such appeal, the Board may determine whether major subdivision review by the Planning Commission under Section 6.3 is required.

(B) **Review Criteria.** The zoning permit application for a minor subdivision shall include information required for sketch plans, as specified in Table 6.1. The Zoning Administrator shall review the sketch plan to determine whether all proposed lots, including any retained lot, comply with applicable lot size, setback, and access requirements under these regulations.

Section 6.3 Major Subdivision Review

(A) **Subdivision Approval Requirement.** The Planning Commission shall review all major subdivisions in accordance with the Act [§4418] and these regulations. Subdivision approval, rather than a zoning permit, shall be required for a major subdivision. An application for subdivision approval shall be made on forms provided by the Commission and filed with the Planning Commission Secretary.

(B) **Waiver Authority.** Pursuant to the Act [§4418] the Planning Commission may waive application requirements as specified in Table 6.1, or subdivision standards under Sections 6.5, 6.6 and/or 6.7 which, in its judgment:

- (1) are not requisite in the interest of public health, safety, and general welfare;
- (2) are inappropriate due to the inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision; or
- (3) would unnecessarily add to the cost of an affordable housing development as defined in Article 10.2.

The request for a waiver shall be submitted in writing by the applicant with the subdivision application. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver or variance, and enable the Commission to reach a decision. In granting waivers, the Commission may require such conditions that will, in its judgment, substantially meet the objectives of the requirements so waived or varied. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of these regulations or other municipal ordinances or regulations currently in effect.

(C) **Sketch Plan Review.** Prior to the submission of an application for major subdivision review, the applicant may submit a sketch plan to the Planning Commission Secretary for consideration by the Planning Commission at a regularly scheduled Commission meeting. Sketch plan review is strongly recommended for all planned residential developments.

- (1) **Purpose.** The purpose of sketch plan review is to acquaint the Planning Commission with the proposed subdivision at an early stage in the design process, prior to the applicant incurring significant expense. Sketch plan review is intended to allow for an informal exchange of ideas, in which the applicant explores with the Commission subdivision design options that best meet the needs of the applicant and the requirements of these regulations.

TABLE 6.1 SUBDIVISION APPLICATION REQUIREMENTS

	Sketch	Final
(A) Application Information		
Application Form [number of copies]	One [original]	Three [2 copies]
Application Fee [to be set by Selectboard]		Y
Name of project, if any	Y	Y
Name, address of applicant [landowner and/or subdivider]	Y	Y
Written description of proposed development plans, including: Number and size of lots, intended use, general timing of development	Y	Y
Waiver request, in writing [optional]	Y	
Names, addresses of all adjoining property owners		?
(B) Plan/Plat Mapping Requirements		
	Sketch	Final Plat
Material	Paper	Mylar
Preparer Information, Certifications		Y
Scale	To scale noted	Min. 1" = 100'
Date, North Arrow, Legend	Y	Y
Project boundaries and property lines;	Drawn	Surveyed
Existing and proposed lot lines, dimensions	Drawn	Surveyed
Adjoining land uses, roads and drainage	Y	Y
Zoning district designations and boundaries	Y	Y
The location of natural and physical features located on the site, including buildings; roads, driveways and parking areas; fences and walls; watercourses; wetlands; areas of slope in excess of 20%; and a general indication of land cover, including forested areas and land in current or recent (prior 3 years) agricultural production	Y [General Locations]	Y [Specifically Delineated Areas]
Existing and proposed elevations, contour lines within 50 feet of any proposed excavation/grading		5' interval
Existing and proposed roads, paths, common or shared parking areas, associated rights-of- way or easements	Drawn	Surveyed
Proposed building envelopes (if required)		Y
Proposed utilities, water and wastewater systems and associated rights-of-way or easements	Y	Y
Road profiles; road, intersection and parking area geometry and construction schematics		Y
Proposed landscaping and screening		Y
Proposed conservation buffer and/or open space easement areas		Y

Monument locations		Y
(C) Supporting Information & Documentation	Sketch	Final
Site location map showing proposed subdivision in relation to major roads, drainage ways, and adjoining properties	Y	Y
Statement of compliance with town plan and applicable local regulations	Y	Y
Engineering reports (water and wastewater systems)		Y
Existing and proposed traffic generation rates, volumes		Documented
Off-site easements (e.g., for water, wastewater, access)	Description	Final
Proposed phasing schedule	Description	Final
Proposed covenants and/or deed restrictions	Description	Final
Proposed homeowner or tenant association or agreements	Description	Final
Proposed performance bond or surety		Final
(D) As may be required by the Planning Commission		
Stormwater and erosion control plan		As required under sketch plan or preliminary approval
Grading plan (showing proposed areas of cut and fill)		
Open space management plan		
Site reclamation plan (for subdivisions involving extraction)		
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)		
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)		
Historic or archeological assessment		
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)		
Other		

(2) **Submission Requirements.** One original and seven copies of the sketch plan, to include information specified in Table 6.1, should be submitted to the Planning Commission at least 15 days prior to a regularly scheduled commission meeting.

(3) **Effect.** The Planning Commission may offer comments and recommendations at the meeting or, within 30 days of the date of the meeting, provide comments and recommendations to the applicant in writing. Such comments are advisory and as such shall not constitute an appealable decision or action of the Planning Commission, and shall not be binding on subsequent subdivision review.

(D) **Subdivision Review [Required].** The application for major subdivision review shall include one original and seven copies of the information for subdivision plan approval specified in Table 6.1, and any required fees. The application must also include, in writing, any requested waivers to be considered

under Subsection (B) and the reasons for such waivers. The Planning Commission shall consider the application in accordance with the following:

- (1) **Public Hearing.** As required by the Act [§4463] within 45 days of the date submission of a complete application for major subdivision approval, the Commission shall hold a public hearing on the application, warned in accordance with Section 7.6. In the event that the subdivision is located within 500 feet of a municipal boundary, copies of the hearing notice also shall be sent, at least 15 days prior to the hearing date, to the regional planning commission and to the clerk of an adjacent municipality. After the hearing is convened the Planning Commission may continue the hearing as needed to request and allow for the submission of additional information or studies to determine conformance with these regulations.
- (2) **Final Approval.** As required by the Act [§4463], within 45 days of the date of adjournment of the public hearing, the Planning Commission shall approve, approve with conditions or disapprove the subdivision plan and associated plat, based on a determination of the subdivision's conformance with review standards under Sections 6.5, 6.6 and 6.7.
- (3) **Performance Bonding.** For any subdivision that includes the construction of roads or other physical improvements, the Planning Commission may require the subdivider to post a performance bond or other comparable surety to ensure completion of the improvements in accordance with approved specifications. In accordance with the Act [§4464(b)(6)], the term of a performance bond shall be fixed by the Planning Commission for a period not to exceed three years, unless with the consent of the owner it is extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided, the bond shall be forfeited to the municipality which shall then use the proceeds to install and maintain covered improvements.
- (4) **Effect.** Approval of the Planning Commission of a major subdivision shall not be construed to constitute acceptance by the town of any street, easement, utility, park, recreation area or other open space shown on the final plat. Such acceptance may be accomplished only by an act of the Hardwick Selectboard, in accordance with state law for the laying out of public rights-of-way.

(E) **Recording & Amendment Requirements.**

- (1) In accordance with the Act [§4463], within 180 days of the date of receipt of final subdivision approval under Subsection (D)(2), the subdivider shall file three copies of plan and final plat (one Mylar, two paper), signed by an authorized representative of the Planning Commission, for recording in the land records of the town in conformance with the requirements of 27 V.S.A. Chapter 17. Approval of subdivision plats not filed within 90 days shall expire.
- (2) The municipality shall meet all recording requirements for subdivision approvals as specified for municipal land use permits under Section 7.6.
- (3) No changes, modifications, or other revisions that alter the final plat or the conditions attached to subdivision approval shall be made unless the proposed revisions are first submitted for review by the Zoning Administrator under Section 6.2 as a minor subdivision amendment, or the Planning Commission under 6.3 as major subdivision amendment. In the event that revisions are recorded without complying with this requirement, the revisions shall constitute a violation of these regulations, and be considered null and void.

Section 6.4 Application of Subdivision Standards

(A) The Planning Commission shall evaluate major subdivisions under the standards set forth in this article. The Commission, to assist in its evaluation, may require:

- (1) that the subdivider identify the intended use of land to be subdivided, including a general indication of subsequent development plans for retained land when only a portion of an existing parcel is to be subdivided;
- (2) an independent technical review of the proposed subdivision under one or more standards, prepared by a qualified professional and paid for by the subdivider; and
- (3) the modification of the subdivision design, the phasing of development, and/or additional measures to avoid or mitigate any adverse impacts likely to result from the proposed subdivision.

Section 6.5 General Standards [applicable to all Major Subdivision]

(A) **Development Suitability.** All land to be subdivided shall be suitable for the intended use and proposed density of development, and not result in undue adverse impacts to public health and safety, natural resources identified in the Hardwick Town Plan, or the character of the surrounding neighborhood in which it is located. Subdivisions shall set aside, or exclude from subsequent development, land that is characterized by periodic flooding, poor drainage, steep slopes, or other hazardous conditions, or that is inadequate to support structures or infrastructure.

(B) **Hardwick Town Plan & Regulations.** Subdivisions shall conform to the *Hardwick Town Plan*, other provisions of these regulations, capital budget and programs, and all other municipal bylaws, ordinances and regulations in effect at the time of application.

(C) **District Settlement Patterns.** A subdivision shall be designed to achieve the purpose, objectives and desired settlement patterns of the zoning district(s) in which it is located, as defined in Article 2. To the extent feasible, new subdivisions of land shall:

- (1) maintain and extend desired settlement patterns, including lot areas and configurations, building locations, and road networks;
- (2) maintain contiguous tracts of open land with adjoining parcels; and
- (3) connect and extend existing road, sidewalk, path, and utility corridors.

(D) **Lot Layout.** Lot layouts shall:

- (1) be consistent with the suitability of land for development, as defined under Subsection (A);
- (2) conform to desired district settlement patterns, as required under Subsection (C);
- (3) meet zoning district minimum lot size and density requirements under Article 2, except as modified for planned residential developments under Article 5.4;
- (4) conform to lot and yard requirements under Section 3.8; and
- (5) avoid irregularly shaped lots (e.g., with curves, jogs, dog-legs, etc.), unless warranted due to topographic constraints, or to minimize the fragmentation of natural, scenic or cultural features.

(E) **Survey Monuments.** The locations of all proposed permanent surveying monuments and corner markers, as required under the Rules of the Board of Land Surveyors, shall be identified on the final subdivision plat.

(F) **Building Envelopes.** The Planning Commission may require the designation of building envelopes to limit the location of structures, parking areas, and associated site improvements to one or more portions of a lot. The size and shape of each building envelope shall be established in accordance with these regulations. The Commission also may require the identification of specific building footprints if, in its judgment, such information is needed to determine conformance with these regulations.

(G) **Natural, Scenic & Historic Resource Protection.** Subdivision boundaries, lot lines, and building envelopes shall be located and configured to avoid adverse impacts to significant natural, historic and scenic features identified in the *Hardwick Town Plan* or through site investigation. For purposes of these regulations, these shall include wetlands, surface waters, and associated buffer areas (Section 3.12); flood hazard areas (Section 5.3); prominent ridgelines and hilltops, rock outcroppings, and slopes in excess of 25% (Section 3.14); critical wildlife habitat areas; and historic sites, structures and features (e.g., buildings, cellar holes, stone walls). Accordingly:

- (1) lot lines shall be configured to avoid the fragmentation of significant natural or cultural features, including designated buffer areas;
- (2) building envelopes shall be located and sized to exclude such features;
- (3) roads, driveways and utility corridors, to the extent feasible, shall be shared, located to follow existing linear features (e.g., farm roads, stone walls, tree and fence lines), and to avoid significant natural and cultural features;
- (4) lot lines and building envelopes shall be located to ensure that no buildings are placed on steep slopes, or extend above the height of land (highest point) of any prominent ridgeline or hilltop;
- (5) historic sites and structures shall be incorporated in subdivision design and layout;
- (6) subdividers may be required to incorporate buffers, landscaping or screening in subdivision design, and/or submit management plans to protect significant natural, scenic and historic resources.

(H) **Stormwater Management & Erosion Control.** Subdivisions shall incorporate temporary and permanent stormwater management and erosion control practices appropriate for the type and density of proposed development. Accordingly:

- (1) All stormwater management systems shall be designed to:
 - a. use natural drainage systems to the extent feasible, and minimize the need for maintenance,
 - b. maximize on-site infiltration and treatment of stormwater, and minimize surface runoff,
 - c. accommodate anticipated storm events,
 - d. provide storage areas and treatment to manage flow and protect water quality, and
 - e. avoid damage to adjoining or downstream properties.
- (2) The Planning Commission may require the submission of stormwater management and erosion control plans, prepared by a licensed professional. Such plans shall incorporate acceptable stormwater treatment practices and sizing criteria set forth in the *Vermont Stormwater Management Manual* as most recently amended.
- (3) The Commission may require the phasing of site development or construction to limit the extent of disturbed area during each phase of the subdivision.
- (4) The Commission also may require an evaluation of the effect of the subdivision on existing downstream drainage capacity outside the area of subdivision. Where the Commission finds that increased runoff from the subdivision will exceed the capacity of downstream storage, drainage or

treatment systems, it may request that the subdivider delay construction until such capacity exists, or to install necessary off-site improvements as needed to increase capacity.

(I) **Landscaping & Screening.** The preservation, planting and maintenance of trees, ground cover, or other vegetation, of a size and type deemed appropriate by the Planning Commission, may be required to:

- (1) preserve existing trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat areas;
- (2) provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality, or other natural or scenic features.
- (3) provide screening to increase privacy, reduce noise or glare, or establish a barrier between incompatible land uses; and/or to
- (4) establish a tree canopy along roads or pedestrian walkways where the Planning Commission deems it appropriate.

(J) **Energy Conservation.** Subdivision design and layout, to the extent feasible, will encourage energy efficiency through:

- (1) the siting and orientation of development (e.g., building envelopes), to take advantage of southern exposures and natural vegetative or topographic buffers;
- (2) the clustering of development (e.g., lots, building envelopes) to minimize road and utility line extensions and reduce travel distances; and
- (3) the effective use of landscaping to provide wind barriers and shading, and to reduce heat loss.

Section 6.6 Transportation Facilities & Infrastructure

(A) **Access.** Access to the subdivision and to individual lots shall be provided in accordance with the requirements of Section 3.3. All access onto town highways shall be subject to the approval of the Hardwick Selectboard, or for state routes, the Vermont Agency of Transportation. Such approval shall be required prior to final subdivision plan approval. To better manage traffic flow and safety, to avoid congestion, and to preserve the capacity of local roads, the Planning Commission may also:

- (1) limit the number of access points onto public highways;
- (2) require shared access, driveways, and/or roads to serve multiple lots;
- (3) require access from secondary roads, if a proposed subdivision has frontage on both primary and secondary roads;
- (4) require rights-of-way for future road extensions to connect to adjoining parcels; and/or
- (5) prohibit the creation of reserved strips adjacent to a proposed road which would deny access from adjacent properties.

(B) **Driveways.** Driveways serving three or fewer lots, shall meet standards for driveways included in the *Town of Hardwick Policy for Transportation Construction and Improvements* as most recently amended. For the purposes of these regulations, driveways serving four or more lots shall be considered roads subject to the requirements of Subsection (C).

(C) **Roads.** The following road standards shall apply to all public roads, and to private roads serving four or more lots.

- (1) **Capacity.** Traffic to be generated by the proposed subdivision shall not result in unreasonable traffic congestion on public highways, or exceed the functional capacity of roads, intersections and related infrastructure in the vicinity of the subdivision. The Planning Commission may require the

submission of a traffic impact study to identify impacts and necessary mitigation measures to ensure road safety and efficiency, the cost of which shall be borne by the applicant. The subdivider, as a condition of approval, also may be required to install needed traffic control measures and road improvements, and/or reserve land to accommodate future improvements, as needed to serve the subdivision.

- (2) **Layout.** Roads shall be laid out to:
 - a. minimize the amount of cut and fill required,
 - b. maintain reasonable grades and safe intersections,
 - c. produce useable lots,
 - d. allow for access by emergency vehicles,
 - e. avoid adverse impacts to natural, scenic and historic features,
 - f. follow existing linear features (e.g., field edges, utility corridors, tree and fence lines, stone walls),
 - g. avoid dead-end streets and cul-de-sacs, particularly in village areas, and
 - h. allow for future road extensions, identified as proposed easements on the subdivision plat, to serve adjoining parcels.
- (3) **Design & Construction.** All roads serving the proposed subdivision shall be designed according to the dimensional and geometric design standards for streets and roads contained in the *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads, and Streets* as most recently amended; and constructed in accordance with the *Town of Hardwick Policy for Transportation Construction and Improvements*.
- (4) **Maintenance.** The maintenance of all roads not designated as Class III town highways or higher shall be the responsibility of the subdivider and subsequent property owners. The subdivider shall provide evidence and assurance that such roads will be adequately maintained by the subdivider and/or an owners' association. In instances involving proposed lots requiring access onto Class IV town highways, a road maintenance agreement approved by the Hardwick Selectboard shall be required prior to final subdivision approval.
- (5) **Names & Signs.** Road names shall be approved by the Hardwick Selectboard, in accordance with road naming ordinances and policies currently in effect. Approved road names shall be clearly depicted on the final plat, and identified on signs approved by the Selectboard.
- (E) **Parking Facilities.** Common or shared parking areas shall be identified on the subdivision plat, and designed in accordance with Section 3.10. Parking areas for individual lots shall be included within designated building envelopes.
- (F) **Transit Facilities.** The Planning Commission may require that subdivisions located on existing or proposed transit routes, including school bus routes, include a sheltered transit stop for use by residents of the subdivision.
- (G) **Pedestrian Access.** To facilitate pedestrian access from the subdivision to adjoining parcels and roads, or to nearby public schools, playgrounds, or public lands, the Planning Commission may require one or more of the following:
 - (1) sidewalks and curbing to connect to existing sidewalks on adjoining properties;

- (2) sidewalks and curbing along internal subdivision roads within the Central Business and Village Neighborhood Districts.
- (3) the installation of pedestrian crosswalks at designated intersections,
- (4) unobstructed easements at least 10 feet in width for pedestrian or recreation paths, as indicated on the final plat.

Section 6.7 Facilities & Utilities

(A) **Public Facilities.** The Planning Commission shall find that the proposed subdivision does not create an undue burden on existing and planned public facilities. The Planning Commission may consult with appropriate municipal and school officials to determine whether adequate capacity exists to serve the subdivision. The Planning Commission also may require a fiscal impact analysis, to be paid for by the subdivider, and/or the phasing of development in accordance with a duly adopted municipal or school capital budget and program.

(B) **Fire Protection.** The Planning Commission, in consultation with the Hardwick Fire Department, may require that the subdivider provide adequate water storage and distribution facilities for fire protection. The subdivider shall install fire hydrants, dry hydrants, or fire ponds as required by the Commission.

(C) **Water Systems.** The subdivider shall demonstrate to the satisfaction of the Planning Commission that adequate potable water supplies exist on and/or off site to serve the subdivision. In addition:

- (1) Subdivisions within the designated municipal water system service areas for Hardwick and East Hardwick shall be connected to such systems in accordance with municipal water system ordinances currently in effect; and the location of water lines shall be shown on the final subdivision plat.
- (2) On-site systems, including individual or community water supply systems, shall be designed in accordance with all applicable state and municipal regulations. The Planning Commission may require that all water sources be identified on the final subdivision plat.
- (3) Where applicable, designated source protection areas (SPAs) for municipal and community water supplies also shall be identified on the final subdivision plat; and shall be managed in accordance with a state approved source protection plan.
- (4) The location of structures and in-ground wastewater disposal systems will be reviewed to ensure such locations do not encroach upon existing water supply isolation distances, as defined by applicable state regulations.

(D) **Wastewater Systems.** All subdivisions within the Hardwick municipal sewer service area shall be designed and connected to the municipal system in accordance with the municipal sewer ordinance. Sewer lines shall be shown on the final plat. All other on-site systems, including individual and community (clustered) systems, shall be designed in accordance with applicable state and municipal regulations. The Planning Commission may require that sewage disposal areas be identified on the final plat.

(E) **Utilities.** All existing and proposed utilities, including but not limited to electric, telephone, and cable television utilities, shall be shown on the final plat. In addition:

- (1) All utilities within the subdivision shall be located underground, unless the Planning Commission determines that burial is not necessary to preserve the scenic character of the area, or that it is prohibitively expensive.
- (2) The subdivider shall coordinate subdivision design with utility companies, including the Hardwick Electric Company, to ensure that suitable areas are available for above ground or underground installation, within and adjacent to the proposed subdivision. Utility easements of sufficient width shall be provided to serve both the proposed subdivision, and future service extensions to adjoining properties. Such easements shall be identified on the final plat.
- (3) Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and be located to minimize site disturbance, adverse impacts to significant natural, cultural and scenic features, and to public health.

Section 6.8 Legal Requirements

(A) Land reserved for the protection of significant natural, cultural or scenic features, or other open space areas, may be held in common, or in separate ownership from contiguous parcels. Such land may be dedicated, either in fee or through a conservation easement approved by the Planning Commission, to the municipality, an owners' association comprised of all present or future owners of subdivided lots, and/or a nonprofit conservation organization. At minimum, land designated for protection shall be indicated with appropriate notation on the final subdivision plat.

(B) The subdivider shall provide documentation and assurances that all required improvements, associated rights-of-way and easements, and other common lands or facilities will be adequately maintained either by the subdivider, an owners' association, or through other legal means acceptable to the Planning Commission. Such documentation, as approved by the Planning Commission, shall be filed in the Hardwick land records.

(C) All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Planning Commission. The Commission may require that all such improvements be completed prior to the issuance of a zoning permit for the subsequent development of subdivided lots. A performance bond or comparable surety acceptable to the Hardwick Selectboard may be required to ensure that all improvements are completed to specification.

ARTICLE 7. ADMINISTRATION & ENFORCEMENT

Section 7.1 Permit & Application Requirements

(A) **Zoning Permit Requirements.** No land development may commence, and no structure may be erected, substantially improved, moved, or changed in use, unless a zoning permit has been issued by the Zoning Administrator as provided for in the Act [§4449], or the development is specifically exempted from the provisions of these bylaws under Section 7.2. Other municipal permits or approvals, such as curb-cut or sewer connection approval, also may be required under separate ordinances.

(B) **Application Requirements.** Applications for zoning permits shall be submitted to the Zoning Administrator on forms provided by the Town, along with any application fees as established by the Selectboard. In addition, the following will be required as applicable:

- (1) **Permitted Uses.** Applications for permitted uses shall include a statement of the existing and intended use of land and structures, and be accompanied by a sketch plan, drawn to scale, that includes the following:
 - a. the dimensions of the lot, including existing and proposed property boundaries;
 - b. the location, footprint, and height of existing and proposed structures and additions;
 - c. the location of existing and proposed easements, rights-of-way and utilities;
 - d. setbacks from property boundaries, rights-of-way, surface waters, and wetlands;
 - e. a surveyor's plot plan, if available; and
 - f. additional information as requested to determine conformance with the provisions of these bylaws.
 - (2) **Conditional Uses.** Uses that require conditional use review must include a development plan prepared and submitted in accordance with Section 5.2.
 - (3) **Flood Hazard Area Review.** Uses within the flood hazard overlay district that require flood hazard review must include a flood hazard development plan prepared and submitted in accordance with Section 5.3.
- (C) **Issuance of Zoning Permits.** The Zoning Administrator shall issue zoning permits in accordance with the following:
- (1) No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires approval of the Board of Adjustment and/or Planning Commission, until such approval has been obtained.
 - (2) Within 30 days of receipt of a complete application, including all application materials, fees and approvals, the Zoning Administrator shall either issue, deny or refer a permit in writing pursuant to the Act [§§4449, 4465]. An application for a zoning permit will not be considered complete until all necessary approvals (e.g., Board of Adjustment, Planning Commission) required by these bylaws have been obtained. Denials shall include a statement describing the reasons for denial and the time in which appeals may be made under Section 7.3. If the Zoning Administrator fails to act within the 30 day period, a permit shall be deemed issued on the 31st day.

- (3) Within 3 days of issuance, the Zoning Administrator shall deliver a copy of the permit to the Listers, and post a copy at the Town Office for a period of 15 days from issuance.
- (4) A notice of permit, on a form prescribed by the municipality, must be posted by the applicant within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.

(D) **Effective Dates.** No zoning permit shall take effect until the time for appeal under Section 7.3 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. Permits and associated conditions will run with the land and be binding upon the landowner's future heirs and assigns. A permit will, however, expire and become null and void within 2 years from the date of issuance if the permitted development has not commenced. Prior to the expiration of the permit, the Zoning Administrator may issue an extension for one additional year.

(E) **Certificate of Compliance.** After the effective date of these regulations, the Planning Commission and/or Board of Adjustment may require, as a condition of subdivision or conditional use approval, that a certificate of compliance be obtained to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions.

- (1) The application for a certificate of compliance shall be submitted to the Zoning Administrator with as-built plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, parking areas, signs, landscaping and other improvements as constructed.
- (2) Within 14 days of receipt of the application for a certificate of compliance, the Zoning Administrator will inspect the project to ensure that all work has been completed in conformance with the conditions of approval. If the Zoning Administrator fails to either grant or deny the certificate of compliance within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.

Section 7.2 Exemptions

(A) No zoning permit shall be required for the following:

- (1) Any building for which construction lawfully began prior to the effective date of these regulations, provided that such construction is completed within two years of the effective date.
- (2) Normal maintenance, repair, remodeling or interior alteration of an existing structure that does not result in any change to the footprint or height dimensions, or any expansion in the total area, of the structure, or a change in use.
- (3) Residential entry stairs (excluding deck or porch areas), handicap ramps, walkways, and fences or walls less than 8 feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibility or sight distances for vehicular traffic.
- (4) Accessory structures, such as a shed, tree house, doghouse, child's play house, or similar structure with a floor area of not more than 100 square feet (each) and a height of not more than ten (10) feet which is located at least 10 feet from all property lines. A zoning permit is required for all other accessory structures.

- (5) Prefabricated, temporary carports and storage covers assembled out of metal structural supports and fabric, provided such covers are not affixed to a permanent foundation, do not exceed 240 square feet of covered space and meet all setback standards for the district in which they are located.
- (6) The ordinary use of a small room of a dwelling for personal office use and/or paperwork for business activity carried on elsewhere, in accordance with Section 4.8.
- (7) Noncommercial outdoor recreation that does not involve the development or use of structures or substantial site improvement (e.g., construction of parking area at a trail head).
- (8) Minor grading and excavation associated with road and driveway maintenance (including culvert replacement and re-surfacing) and yard improvements associated with accessory uses to existing principle uses (contouring yards, establishing garden and landscape areas).
- (9) Garage sales, yard sales and auctions not exceeding 3 consecutive days, nor more than 12 days per calendar year, which do not cause unsafe traffic conditions or parking problems.
- (10) Fuel storage as an accessory structure to an allowed use, provided such storage meets the requirements of Section 3.15.
- (11) Accepted management practices (AMPs) for silviculture as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act [§4413(d)].

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

- a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- The Town of Hardwick or any municipality that adjoins it.
- a person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if conformed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
- any ten persons who may be any combination of voters or real property owners within a municipality listed above who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- any department and administrative subdivision of this state owning property or any interest in property within a municipality listed above, and the agency of commerce and community development of this state.

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

Section 7.3 Appeals

(A) **Decisions of the Zoning Administrator.** In accordance with the Act [§§4465, 4472], the applicant or any interested person may appeal a decision or act of the Zoning Administrator by filing a notice of

appeal with the Secretary of the Board of Adjustment, or the Town Clerk if no Secretary has been elected, within 15 days of the date of such decision or act.

- (1) As required by the Act [§4468], the Board of Adjustment shall hold a public hearing on a notice of appeal within 60 days of the filing of the appeal. The Board shall give public notice of the hearing as required under Section 7.6, and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
- (2) The Board of Adjustment shall render a decision on appeal, to include written findings of fact, within 45 days after hearing completion as required by the Act [§4464]. The Board may reject an appeal without hearing, and render a decision within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Zoning Administrator and Town Clerk in accordance with the Act.

(B) **Decisions of the Board of Adjustment or Planning Commission.** The applicant or any interested person who has participated in the proceeding may appeal a decision of the Board of Adjustment or Planning Commission within 30 days of such decision to the Vermont Environmental Court, in accordance with the Act [§§4471, 4472]. Notice of appeal shall be sent to every interested person appearing and having been heard at the hearing before the Board or Commission.

(C) **Notice of Appeal.** Pursuant to the Act [§4466], a notice of appeal shall be in writing and include:

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

Section 7.4 Variances

(A) The Board of Adjustment shall hear and decide upon requests for variances pursuant to the Act [§4469] and appeal procedures under Section 7.3. **The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:**

- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
- (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;

- (3) that the unnecessary hardship has not been created by the appellant;
- (4) that the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development
- (5) of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- (6) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

(B) On an appeal for a variance from the provisions of these bylaws that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the facts listed in the Act [§4469] are found in the affirmative and specified in its decision.

(C) Variances within the **Flood Hazard Area Overlay District** shall be granted by the Board of Adjustment only:

- (1) in accordance with the Act [§4469, §4424] and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations;
- (2) upon a determination that during the base flood discharge the variance will not result in increased flood levels; and
- (3) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

Section 7.5 Violations & Enforcement

(A) **Violations.** The commencement or continuation of any land development or use which is not in conformance with the provisions of these bylaws shall constitute a violation. The Zoning Administrator shall take appropriate action in the name of the Town to enforce the provisions of these bylaws in accordance with the Act [§§4451, 4452]. All fines imposed and collected for violations of these bylaws shall be paid over to the Town.

(B) **Notice of Violation.** As set forth in the Act [§4451], no action may be brought under this Section unless the alleged offender has had at least seven days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, the nature of that violation, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for the violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the next succeeding 12 months.

(C) **Limitations on Enforcement.** The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals. Enforcement proceedings must be instituted within 15 years

from the date the violation first occurred. The burden of proving the date that the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

Section 7.6 Municipal Administrative Requirements

(A) **Appointments.** The following appointments shall be made in association with the administration and enforcement of these bylaws as provided for in the Act:

(1) **Zoning Administrator.** The Planning Commission, with the approval of the Selectboard, shall appoint a Zoning Administrator for a term of 3 years in accordance with the Act [§4448]. In the absence of the Zoning Administrator, an Acting Zoning Administrator may be appointed by the Planning Commission in consultation with the Selectboard. The Zoning Administrator shall administer these bylaws literally, and shall not have the power to permit any development that is not in conformance with it.

(2) **Board of Adjustment.** The Board of Adjustment existing on the date of adoption of these bylaws shall continue as the Board of Adjustment and the terms of its respective members shall be the same as they were on the effective date. Members of the Board, which may consist of the members of the Planning Commission, shall be appointed by the Selectboard [§4460]. One or more alternates also may be appointed by the Selectboard to serve for members in the event of an absence or conflict of interest. The Board shall adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A., §310-314]; and shall have powers and duties as set forth in the Act to administer the provisions of these bylaws, including but not limited to the power to hear and decide:

- applications for conditional use approval under Section 5.2;
- appeals from any decision, act or failure to act by the Zoning Administrator under Section 7.3; and
- variance requests under Section 7.4.

(3) **Planning Commission.** The Planning Commission existing on the date of adoption of these bylaws shall continue as the Planning Commission and the terms of its respective members shall be the same as they were on the date of adoption. The Commission shall be appointed by the Selectboard unless otherwise elected by the voters of the Town in accordance with the Act [§§4321, 4323]. The Commission shall adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4323] and Vermont's Open Meeting Law [1 V.S.A. 310-314]; and shall have powers and duties as set forth in the Act [§4325], including but not limited to the power to hear and decide:

- requests and petitions for bylaw amendments;
- requests for access approval under Section 3.3;
- requests for subdivision approval under Section 6.1 and
- applications for planned residential and planned unit developments under Section 5.4.

(B) **Fee Schedule.** The Selectboard shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering the town's administrative costs.

(C) **Hearing Notice Requirements.** As required by the Act [§4464], any public notice required for public hearing under these bylaws shall be given by the publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town, and the posting of such notice in three or

more public places within the Town including posting by the applicant of a notice of hearing within view from the public right-of-way most nearly adjacent to the property for which an application is made, not less than 15 days prior to the hearing date. Failure by the applicant to comply with this requirement may result in the denial of the application. Written notification of the hearing shall be sent by mail to the applicant and to all adjoining property owners. The applicant will be required to provide a list of adjoining property owners to the Administrator for notification purposes.

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

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

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

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

ARTICLE 8. DEFINITIONS

Section 8.1 Terms & Use

(A) Except where specifically defined here 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 here, the following shall apply:

- (1) the specific controls the general;
- (2) the present tense includes the future tense;
- (3) the singular includes the plural;
- (4) the word "shall" is mandatory; the word "may" is permissive;
- (5) the word "structure" includes "building; "
- (6) the word "road" includes "street" and "highway; "
- (7) the word "lot" includes "parcel; "
- (8) the word "person" includes an individual, partnership, association, corporation, company or organization; and
- (9) the word "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied. "

(C) For the purposes of flood hazard area regulation under Article 5, 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 commonly used terms are provided in Section 10.2.

(D) Any interpretation of words, phrases or terms by the Zoning Administrator may be appealed to the Board of Adjustment under Section 7.3. 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 8.2 Definitions

Abutting Property: Two or more parcels which share a common parcel boundary or point. For the purposes of these regulations, abutting property shall also include facing properties across road rights-of-way. See also Contiguous Land.

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 in accordance with the Act [§4413(d)]. Also see Agriculture.

Accepted Management Practices (AMPs): Accepted silvicultural (forestry) practices as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation in accordance with the Act [§4413(d)].

Accessory Dwelling: A secondary dwelling unit established in conjunction with and clearly subordinate to a single family dwelling which is retained in common ownership, is located on the same parcel as the

primary structure, and which otherwise meets applicable criteria of these regulations (see Section 4.2). This definition encompasses accessory apartments as required under the Act [§4412(1)]. See also Caretakers Apartment.

Accessory Structure: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, playhouses, and in-ground swimming pools which are incidental to the residential use of the premises and not operated for gain. For other than residential uses these are sheds and storage buildings which are incidental to the approved conditional use of the premises. See also Accessory Use.

Accessory Use: A use which is customarily incidental and subordinate to the principal use of a lot or parcel of land, is located on the same lot as the primary use, and is clearly related to the principal use.

Access: A defined area of vehicular ingress and/or egress between property and an abutting road right-of-way.

Act: 24 V.S.A., Chapter 117, the Vermont Municipal and Regional Planning and Development Act as amended.

Adaptive Reuse: The rehabilitation or renovation of an historic structure for another allowed use, as specified in these regulations (see Section 4.3).

Affordable Housing: In accordance with the Act [§4303(1)], 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.

Affordable Housing Development: In accordance with the Act [§4303(2)], a housing development of which at least 20 percent of the units or a minimum of 5 units, whichever is greater, are affordable housing units.

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 Commissioner 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.

Alteration: Structural change, change of location, or addition to a building or structure, excluding normal maintenance and repair. Alterations shall include any construction that changes the number of dwelling units, or increases the size of a building or structure in terms of its height, length, width, footprint, or gross floor area. See also Improvement, Substantial Improvement.

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

Applicant: The owner of land or property proposed to be developed in accordance with these regulations, and/or his or her duly authorized representative. Any party with a legal interest in land development may apply in cooperation with the owner of the property.

Approval: A written decision issued by the Board of Adjustment or Planning Commission within the statutory time limit, or in the event of the Board's or Commission's failure to act within the specified time limit, a certification of such failure to act issued by the Town Clerk, as attached to the permit application and recorded in the land records of the town.

Area of Shallow Flooding: A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) having 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 the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: Land in the floodplain which is subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making is completed in preparation for the Flood Insurance Rate Map, Zone A is refined into Zones A, AO, AH, A1-30, AE, or A99.

Bar: See Restaurant.

Bank: See Financial Institution.

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

Basement: Any area of a building having its floor at subgrade (below ground level) on all sides.

Bed & Breakfast (B&B): A single family dwelling occupied by the owner or operator, in which not more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; breakfasts shall be the only meals served and shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests. See also Hotel/Motel.

Board: The Hardwick Zoning Board of Adjustment, as established under the Act, unless otherwise specified.

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: (1) A structure used for the shelter or accommodation of persons, animals, goods, chattel or equipment, which has a roof supported by columns or walls; (2) for development within the flood hazard

area overlay district, this definition also includes a gas or liquid storage tank that is principally above ground. See also Structure.

Building Envelope: A specific area delineated on a lot within which all structures are to be located, and outside of which no structures are to be located.

Building Height: The distance measured vertically from the average (of the highest and lowest) finished grade at the base or foundation to the highest point on top of the building (or structure), excluding any noted structural exemptions from height requirements under Section 3.7.

Building Line: The line parallel to the lot line transecting that point in the principal or accessory dwelling face which is closest to the lot line, including porches, whether enclosed or unenclosed, but excluding steps. See also Lot Line, Street Line.

Building Orientation: The location on a lot of a building or other structure in relation to roads, rights-of-way, parks, and building or street lines.

Camp: See Seasonal Dwelling.

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

Campground: A parcel of land upon which two or more campsites are located for occupancy by a tent, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes. "Primitive" campgrounds are further characterized as campgrounds which are limited to substantially unimproved camp sites intended for tenting use only (see Section 4.5).

Caretakers Apartment: A secondary dwelling unit established in conjunction with and clearly subordinate to a principal use other than a single family dwelling, which is retained in common ownership, is located on the same parcel as the primary structure, and which otherwise meets applicable criteria of these regulations. See Accessory Apartment. (see Section 4.2).

Cemetery: Land used or dedicated to the burial of the dead, which includes as accessory structures mausoleums, columbariums, and maintenance facilities, but specifically excludes crematoriums. An individual or family burial plot on private land, registered with the Hardwick Town Clerk in accordance with state law, is exempted from this definition.

Change of Use: Any use which differs substantially from an established use based on the type, intensity, or magnitude of use. For example, this may include a change from one type of use to another (e.g., from a residential to commercial use), or from an accessory to a principal use, or from seasonal to year-round use (see Section 3.4).

Church: See Place of Worship.

Commercial Use: An enterprise that is carried on for profit by the owner, lessee or licensee.

Common Land: Land within a development or subdivision that is not individually owned or dedicated for public use, but which is intended 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, utility and road rights-of way.

Community Care Facility: A residential care facility licensed by the state which provides 24-hour supervision, personal care services, and limited medical services to seven or more individuals who are in need of care, protection and/or assistance to sustain the activities of daily living. See also Group Home.

Community Center: A building owned by a public or nonprofit entity, or a homeowners or similar community association, which is used for recreational and social activities and is intended primarily to serve the population of the community in which it is located.

Community System: Any water or wastewater disposal system other than a municipally-owned system which provides potable water to or disposes of wastewater from two or more domestic, commercial, industrial, or institutional uses. Such systems shall include related collection, distribution and treatment facilities.

Contiguous Land: (1) A parcel of land contained within a single, unbroken parcel boundary (a division of land by a town or private road right-of-way shall not render such land noncontiguous); or (2) two or more parcels which share a common parcel boundary or point.

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.

Cul-de-Sac: A road intersecting another road at one end, and terminated at the other end by some form of vehicular turnaround.

Cultural Facility: A museum, theater, concert hall, botanical or zoological garden, or other establishment which offers programs, performances or exhibits of cultural, educational, historical, or scientific interest, and is not operated as a commercial use. See also Commercial Use, Recreation, Indoor.

Day Care Facility: All state registered or licensed day care facilities which do not meet the definition of "home child care," including nonresidential child and adult day care facilities, and home-based child care facilities that serve more than six children on a full-time basis. See also Home Child Care, Residential Care Facility.

Degree of Nonconformity: The extent which the nonconforming feature/element of a structure extends beyond that point which constitutes the greatest pre-existing encroachment.

Density: The number of dwelling units, principal uses or structures permitted per area of land, excluding land area within designated road rights-of-way.

Development: See Land Development.

Drive-through: A business establishment which includes a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway: A minor, private travel way, serving up to three adjoining parcels, which provides vehicular access from an adjoining road to a parking space, garage or other structure. See also Road.

Dwelling Unit: A space consisting of one or more rooms designed, occupied or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within that space for the exclusive use of a single family or individual maintaining a household. See also Family, Accessory Apartment, and Seasonal, Single Family, Two-Family, and Multi-Family Dwelling.

Easement: The legal authorization given by a property owner to another person or party for the use of any designated part of his or her property for a specified purpose.

Educational Facility: See School.

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 55 years of age or older. Such housing may include, as accessory structures or uses, congregate dining and recreational facilities, and assisted living services. See also Community Care Facility.

Erosion Control: Measures to prevent the detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice and gravity.

Extraction of Earth Resources: A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, and accessory operations such as the crushing, screening, and temporary storage of materials on-site (see Section 4.7). Specifically excluded from this definition are 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. See also Quarrying.

Family: A group of two or more persons living together as a household, or a single person maintaining a household.

Farm Structure: In accordance with the Act [§4495], a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, as "farming" is defined in 10. V.S.A. §6001(22). This definition includes such farm structures as barns, silos, fences and manure pits, but specifically excludes a dwelling for human habitation. See also Accessory Dwelling, Agriculture, Accepted Agricultural Practices.

Farming: See Agriculture.

Final Plat: The final drawings on which the subdivision is presented to the Planning Commission for approval and which, if approved, shall be filed for record with the Town Clerk.

Financial Institution: A bank, savings and loan, finance, mortgage or investment company that is open to the public.

FIA: The Federal Flood Insurance Administration.

Flood Hazard Area: Those lands subject to flooding from the 100-year flood, as defined in the existing or subsequently revised "Flood Insurance Study for the Town of Hardwick, Vermont" and the Flood Hazard Boundary Map (FHBM) or subsequent Flood Insurance Rate Map (FIRM), published by the Flood Insurance Administration, and available at the Hardwick Town Office.

Flood Hazard Boundary Map (FHMB): An official map of Hardwick, issued by the Flood Insurance Administration, where the boundaries of flood and mudslide (i.e., mudflow) related erosion areas having special hazards are designated as Zone A, M, and/or E.

Flood Insurance Study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Proofing: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improve real property, water and sanitary facilities, structures, and their contents.

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.

Forestry: The use and management of woodlands for purposes of timber production, harvesting, and management for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting activities. See also Accepted Management Practices, Sawmill.

Frontage: The width of a lot abutting a road as measured at the street line.

Gasoline Station: An establishment principally used for the sale of automobile or motor vehicle fuels, lubricants, and related motor vehicles products, and/or which has facilities for fueling motor vehicles. This definition specifically excludes automobile and motor vehicle repair services and sales, and the sale of food and unrelated convenience or grocery items. See also Motor Vehicle Service, Mixed Use.

Greenhouse/Nursery: The use of land, buildings and/or structures for the purpose of selling lawn and garden equipment, furnishings and supplies. This definition specifically does not include nurseries and greenhouses that are defined by the state as "Agriculture" or "Accepted Agricultural Practices" and are therefore exempted from these regulations. See also Agriculture, Accepted Agricultural Practices.

Group Home: A residential care home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

Health Clinic: A building or part thereof used for the medical, dental, surgical, or therapeutic treatment of human beings, but does not include a public or private hospital or a professional office of a doctor located in his or her residence. See also Home Occupation, Office.

Height: see Building Height.

Home Child Care: In accordance with the Act [§4412(5)], a state registered or licensed child care home serving 6 or fewer children on a full-time basis, and up to 4 additional children on a part-time basis, which is conducted within a single family dwelling by a resident of that dwelling. A child care home as

defined shall be considered a permitted use of a single family dwelling. See also Day Care Facility, Home Occupation.

Home Industry: A home-based business other than a home occupation which is conducted by the resident(s) of a single family dwelling, which is carried on within the principal dwelling and/or an accessory structure, and which meets all applicable requirements of these regulations (see Section 4.8). See also Home Occupation.

Home Occupation: A use conducted entirely within a minor portion of a single family dwelling which is conducted by resident family members, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not have an undue adverse effect upon the residential character of the neighborhood, and which meets the requirements of these regulations (see Section 4.8). See also Bed & Breakfast, Home Child Care, Home Industry.

Hospital: An institution authorized by the state to provide primary and emergency health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, or other physical or mental conditions; and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, medical offices, central service facilities, and staff residences. See also Health Clinic.

Hotel/Motel: A building containing bedrooms and other facilities rented out to provide overnight accommodations to transient travelers, and having a management entity operating the building(s) and providing such services as maid service, a central switchboard, or dining facilities to occupants of the lodging facility. See also Bed & Breakfast.

Industry, Light: A use providing for the manufacturing of goods predominately from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products or components, but excludes basic industrial processing; and meets the specific standards in Section 4.9. See Also Industry, Heavy.

Industry, Heavy: The processing, treatment and/or conversion of raw or semi-finished materials into a different form or state. This definition does not include the processing of agricultural goods raised on the premises, which falls under the definition of agriculture. See also Industry, Light.

Junk Yard: See Salvage Yard.

Kennel: The boarding, breeding, raising, grooming, or training of four or more dogs, cats, or other household pets of any age for a commercial use and/or which are not owned by the owner or occupant of the premises. See also Veterinary Clinic.

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

Level of Service: (1) A measure of the relationship between public service and facility capacity and the demand for public services and facilities; (2) for traffic, 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 and vehicle operating costs.

Loading Space: An off-street space that is at least twelve feet wide, thirty-five feet long, and fourteen feet high, not including the access driveway, and has direct access onto a road, which is used for the temporary parking of one licensed motor vehicle.

Lot: (1) Land occupied or to be occupied by a principal structure or use and its accessory structures and/or uses, together with required open spaces, having not less than the minimum area, width or depth required for a lot in the district in which such land is situated, and having frontage on a road, or other means of access as may be approved by the Board; (2) a portion of land in a subdivision or plat that is separated from other portions by a property line (see also Contiguous Land). A separate deed description for a parcel of land does not necessarily constitute a lot for zoning and development purposes.

Lot Area: The total land area within the property (boundary) lines of a lot, excluding any area within the boundaries of an existing or proposed road right-of-way.

Lot, Corner: Lot at the intersection of two roads (streets) which has an interior angle of less than 135 degrees. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

Lot Depth: The mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

Lot Frontage: See Frontage.

Lot Line: Property line bounding a lot (parcel).

Lot Size: See Lot Area.

Lot Width: The width of a lot as measured at right angles to lot depth, at the required building front line.

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

Manufactured Home: A single family dwelling, transportable in one or more sections, which is built on a permanent foundation and is connected to required utilities. For floodplain management purposes only, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on the site for more than 180 consecutive days. See also Single Family Dwelling, Mobile Home.

Mean Sea Level: The standard datum to which base flood elevations shown on Flood Insurance Rate Maps, and typical contour elevations, are referenced.

Mixed Use: A building or parcel containing two or more uses which are otherwise allowed as permitted or conditional uses within the district in which the building or parcel is located (see Section 4.10). See also Accessory Use, Principal Use.

Mobile Home: A prefabricated dwelling unit which is (1) designed for continuous residential occupancy; and (2) is designed to be moved on wheels, as a whole or in sections. In accordance with the Act [§4412(1)], a mobile home shall be considered a single family dwelling, and cannot be excluded from a zoning district except on the same terms and conditions as conventional housing is excluded. See also Single Family Dwelling.

Mobile Home Park: A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate three or more mobile homes.

Motor Vehicle Sales: A building, lot or portion thereof used for the sale and/or rental of automobiles, trucks, motorcycles, or other motor vehicles. This definition specifically excludes motor vehicle service, which may be allowed in designated zoning districts subject to review as a Mixed Use. See also Mixed Use, Motor Vehicle Service.

Motor Vehicle Service: An establishment whose principal purpose is the repair of motor vehicles, including body shops, general vehicle and engine repair shops, and rebuilding and/or reconditioning shops. Gasoline stations are specifically excluded from this definition. See also Gasoline Station, Motor Vehicle Sales.

Multi-Family Dwelling: A building housing three or more dwelling units, including apartments or attached town houses. See also Dwelling Unit.

Municipal Land Use Permit: As defined in the Act [§4303(11)] 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.

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

Nonconforming Use: The use of land that does not conform to the present bylaws but did conform to all applicable laws ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Office: A room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes office space which is associated with home occupations, or is clearly accessory to another allowed principal use. It also specifically excludes the on-premise retail sale of goods and services. See also Home Occupation.

Open Space: Land not occupied by structures, buildings, roads, drive-ways, rights-of-way, recreational facilities, and parking lots. Open space may or may not be held in common.

Parking Space: An on- or off-street area, other than a loading or service area, which is to be used exclusively as a temporary storage space for one licensed private motor vehicle (see Section 3.10). A

parking space shall be at least nine feet wide, and eighteen feet long, not including associated access and maneuvering space, and shall have access onto a public or private road.

Parking Facility: A separate, off-street parking area, garage or similar structure that is the principal use of a lot.

Person: Any individual, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations. The word "person" shall also include any municipality or other government agency.

Personal Service: A business which provides services of a personal nature, including but not limited to: laundry and dry cleaning, beauty and barber shops, shoe repair, funeral services, and photographic studios.

Phasing: Development undertaken in a logical time and geographical sequence, typically to ensure that development is coordinated with the provision of services and facilities and will not result in adverse environmental impacts (e.g., erosion).

Place of Worship: A building used solely for purposes of assembly and worship by a legally established and recognized religious institution. This definition also includes such customary accessory structures such as parish houses.

Planned Residential Development (PRD): An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units; the plan for which does not correspond in lot size, bulk, or type of dwelling, density, lot coverage, or required open space under these regulations except as a planned unit development. See also Subdivision, Major.

Planning Commission: The Hardwick Planning Commission, as created under the Act.

Plot Plan or Plat: A map or representation on paper, Mylar or other accepted material, of a piece of land subdivided into lots and roads, drawn to scale.

Pre-existing: A use or structure that was legally in existence as of the effective date of these regulations.

Principal Structure: A building or structure within which the main or principal use of the lot on which the building is located is conducted. See also Accessory Structure, Structure.

Private Club: A corporation, organization, or association or group of individuals existing for fraternal, social, recreational, or educational purposes, for cultural enrichment or to further the purposes of agriculture, which owns, occupies, or uses certain specified premises, which is not organized or operated for profit, and the benefits of which are available primarily to members only.

Public Property: Owned, leased, held, used, and/or controlled exclusively for public purposes by the Town of Hardwick, or any other department or branch of government, or publicly-regulated utility.

Public Assembly Use: See Cultural Facility, Public Facility.

Public Improvement: Any improvement which shall be owned and/or maintained by the Town of Hardwick or other department or branch of state or federal government..

Public Facility/Utility: A building, utility or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipal, state or federal government, regulated utility or railroad. Such facilities include, but may not be limited to: municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, reservoirs, solid and hazardous waste management facilities, institutional facilities, and telephone, cable and electrical distribution lines. Public facilities and utilities, including distribution and service lines to individual uses, are allowed within all zoning districts unless otherwise specified, or specifically excluded, under district standards (see Section 4.13). See also Public Improvement, School, Telecommunications Facility.

Public Road: A road (street, highway) which is constructed within the boundaries of an officially deeded and municipally accepted public right-of-way (town highway), or a designated state road. See also Road.

Quarrying: The removal of rock by means of open excavation to supply material for construction, industrial or manufacturing purposes, and related operations such as blasting, crushing and the temporary storage of materials on site (see Section 4.7). See also Extraction of Earth Resources.

Reconstruct: To replace or rebuild a building or structure which has been substantially destroyed or demolished without regard to cause.

Recreation/Indoor: A building or structure designed, equipped and used for sports, leisure time, and other recreational activities, except for such facilities which are accessory to an approved educational facility or a residential use. This includes, but may not be limited to bowling alleys, movie theaters, pool halls, skating rinks, gymnasiums, and indoor swimming pools. See also Community Center, Cultural Facility.

Recreation/Outdoor: A facility for outdoor recreation, including but not limited to a stadium, tennis courts, golf courses, athletic fields, swimming pools, and trails for hiking, horseback riding, bicycling, snowmobiling, and cross-country skiing; except for such facilities which are accessory to an approved educational facility or a residential use.

Recreation Vehicle: See Camper.

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, on a 24-hour a day basis. See also Day Care Facility, Group Home.

Residential Use: The use of a structure principally for dwelling purposes, and associated customary accessory uses such as a child care home or home occupation as defined under these regulations. For the purposes of these regulations, group homes shall also be considered a residential use of a single family dwelling.

Restaurant: Premises where food and drink are prepared, served and consumed primarily within the principal building.

Retail Store: Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided. This definition specifically excludes motor vehicle sales, motor vehicle service and gasoline stations, and the retail sale of gasoline in association with other retail uses.

Retreat Center: A facility used for professional, education or religious conclaves, meetings, or seminars and which may provide meals, housing and recreation for program participants. Such facilities shall not be open to the general public for meals or lodging. Kitchen and dining facilities shall be located in a single, centrally located building.

Ridgeline: The uppermost points on a profile of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope.

Road: A right-of-way that provides access to four or more parcels. The word "road" shall mean the entire right-of-way, unless otherwise specified under these regulations. See also Driveway, Public Road.

Road Grade: Officially established grade (slope) of the road upon which a lot fronts. If there is no officially established grade, the existing grade of the road shall be taken as the road grade.

Salvage Yard: A facility or area for storing, keeping, selling, dismantling, shredding, or salvaging of discarded material or scrap metal. This definition includes, but is not limited to "junkyards" as defined by the state.

Sawmill: A facility where logs are temporarily stored, and sawn, split, shaved, stripped, chipped or otherwise processed to produce lumber or other wood products. Portable chippers, sawmills, or other equipment used on a temporary basis to process wood on the site of an active logging operation are excluded from this definition. See also Forestry.

School: A public, private or parochial institution licensed 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.

Screening: The use of planted vegetation, fencing, walls, natural topography or earthen berms to visually shield or obscure a structure or use from neighboring structures, properties, rights-of-way, and/or designated public vantage points.

Seasonal Camp: A detached dwelling unit which is not the primary residence of the owner or occupant and/or is occupied only on a part-time or seasonal basis, such as a hunting or summer camp. This definition shall include, but may not be limited to: a dwelling which lacks one or more of the basic amenities, services or utilities required for year-round or all weather occupancy, including but not limited to a winterized plumbing system, insulated walls and roof, heating source, or adequate water or wastewater disposal systems. In districts in which single family dwellings are an allowed use, a seasonal camp may be permitted as a single-family dwelling.

Service Area: An area designated on-site to accommodate customary accessory services to a principal use or structure, including but not limited to recycling and waste disposal facilities, snow storage, cart and bicycle storage, emergency service areas (e.g., fire lanes), and transit services.

Setback: The horizontal distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank, shoreline, or wetland area), to the nearest structural element of a building, structure, or parking area on the premises. In the case of a road, the distance shall be measured starting 25 feet from the road centerline.

Sign: Any structure, display, device, or representation, which is designed or used to advertise, direct to, or call attention to any thing, person, business activity or place, and is visible from any public highway or other public vantage point. This definition does not include the flag, pennant, or insignia of any nation, state, or municipality (see Section 3.13).

Silviculture: See Forestry.

Single (One) Family Dwelling: A building housing one principal dwelling unit designed and intended for year-round use. See also Accessory Dwelling, Dwelling Unit, Group Home, Mobile Home, Manufactured Home, Seasonal Dwelling.

Slope: The deviation of a surface from the horizontal, usually expressed in percent or degrees.

Storage Facility(enclosed): One or more structures used for the storage of goods and materials, and not as a primary location or outlet for business or retail uses.

Stormwater Management: The collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating or filtering of surface water and/or runoff, together with applicable non-structural management techniques.

Story: Part of a building which is between one floor level and the next higher floor level, or ceiling above it.

Stream: Any surface water course in the Town of Hardwick as depicted by the U.S. Geological Survey on topographic maps or as identified through site investigation; excluding artificially created irrigation and drainage channels (see also Stream Channel).

Stream Channel: A defined area that demonstrates clear evidence of the permanent or intermittent passage of water and includes, but may not be limited to bedrock channels, gravel beds, sand and silt beds, and swales. A **stream bank** may define the usual boundaries, but not the flood boundaries, of a stream channel. Artificially created water courses such as irrigation and drainage ditches are specifically excluded from this definition. See also Stream.

Street: See Road.

Street Line: The boundary of an existing or proposed road (street) right-of-way. Where the width of a public road is not established, the street line shall be considered to be twenty-five feet from the center of the road.

Structure: An assembly of materials on the land for occupancy or use, including but not limited to a building, mobile home or trailer, sign, wall or fence which necessitates pilings, footings, or a foundation attached to the land (see Exemptions under Section 7.2). See also Building.

Subdivider: Any person who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. The term shall include an applicant for subdivision approval.

Subdivision: The division of any parcel of land into two or more parcels for the purposes of immediate or future sale, conveyance, or development. The term "subdivision" includes resubdivisions, amended subdivisions, lot line (boundary) adjustments, and the division of land held in common among several owners. See also Parcel; Subdivision, Major; Subdivision, Minor.

Subdivision, Major: All subdivisions other than minor subdivisions, including but not limited to a subdivision and/or subsequent resubdivision of a parcel(s) to create four or more lots, and all planned residential and planned unit developments. See also Subdivision; Subdivision, Minor.

Subdivision, Minor: (1) Lot line or boundary adjustments between pre-existing lots which do not create additional or nonconforming lots, (2) the subdivision of land into three or fewer lots, each of which meets the frontage requirements for the zoning district in which it is located, within a five year period; or (3) amendments to an approved subdivision (including a the resubdivision of a subdivided parcel) which do not substantially alter the nature of the approved subdivision, result in the creation of a total of more than three lots, or violate the original conditions of approval. See also Subdivision; Subdivision, Major.

Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either: (a) before the improvement or repair is started, or (b) if the structure has been damaged and restored, before the damage occurred. For the purpose of administering flood hazard area regulations, this definition excludes the improvement of a structure to comply with existing municipal or state health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Substantially Completed: The completion of a permitted building or structure to the extent that it may be safely occupied for its intended use.

Telecommunications Facility: A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

Tourist Home: See Bed & Breakfast.

Tower: A vertical structure for antenna(s) and associated equipment that provide telecommunication services.

Town Plan: The *Hardwick Town Plan* as most recently adopted.

Town Highway: See Public Road.

Trailer: See Camper.

Two-Family Dwelling: A building housing two principal dwelling units. See also Accessory Dwelling, Dwelling Unit.

Use: The purpose for which a building, structure, or parcel of land is designed, intended, occupied or used.

Variance: As set forth in the Act [§4469], permission to depart from the literal requirements of these regulations. Such permission is limited to departures from zoning requirements relating to frontage, setback, yard, coverage and height requirements (see Section 7.4). See also Degree of Noncompliance, Noncomplying Structure, and Nonconforming Use.

Veterinary Clinic: A building or premises used for the medical or surgical treatment and temporary boarding of domestic animals and pets. See also Kennel.

Warehouse: See Storage Facility (enclosed).

Wireless Telecommunication Service: Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service or public or private radio dispatch service.

Yard: The area on a lot, defined by front, side or rear setback distances, which is not occupied by a building or structure. See also Setback.

Yard Sale: The casual 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.

Zoning Administrator: the Hardwick Administrative Officer.