

## **ARTICLE I. PURPOSE AND GENERAL RULES OF APPLICATION**

### **SECTION 1 - ENACTMENT AND PURPOSE**

#### 1.1. ENACTMENT

The Zoning Regulations for the Town of Duxbury are hereby established in accordance with the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117 (the Act). The Zoning Regulations shall be entitled "Town of Duxbury, Vermont Zoning Regulations." This Regulation sets forth the text and map constituting the Town of Duxbury, Vermont Zoning Regulations (Regulations or by-laws).

#### 1.2. PURPOSE

The purpose of the Regulation is to:

- A. Foster and encourage the use of lands in the Town of Duxbury in a manner that will promote the public health, safety, prosperity, comfort, convenience, efficiency, economy and general welfare in the Town of Duxbury;
- B. Implement the Town Plan of Duxbury;
- C. Protect soil, forests, water, primary agricultural lands, and other natural resources;
- D. Reduce noise, air pollution, water pollution and other obnoxious influences and conditions, and provide adequate access to light and air;
- E. Encourage the most desirable and appropriate use of land and to minimize the adverse impact of one land use upon another;
- F. Encourage the healthful and convenient distribution of population and other activities; to prevent undesirable concentration of population, overcrowding of land or building, traffic congestion, inconvenience and hazards caused by inadequate parking facilities and through traffic;
- G. Minimize the loss of peace, quiet, and privacy;
- H. Enhance the attractiveness of the Town of Duxbury; and
- I. Secure safety against fire, explosions, floods, and other dangers.

### **SECTION 2 - RULES OF APPLICATION**

- A. The application of the Regulations is subject to the Act.
- B. Except where the Regulations specifically provide to the contrary, the Regulations are not intended to repeal, annul or in any way impair any regulations or permits previously adopted. Existing uses and structures are grand-fathered unless a person or parcel of land is already in violation of a permit or a prior regulation.
- C. Where the Regulations impose greater restriction upon the use of a structure or land than required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of the Regulations shall control.
- D. The Regulations shall not relieve any person or entity from the obligation to comply with all applicable state or federal regulations, rules, statutes, or permits.
- E. The Regulations may be amended according to the requirements and procedures established in 24 V.S.A. §§ 4441 and 4442.
- F. A finding of the invalidity of any provision by a court of competent jurisdiction, shall not invalidate any other provision of this Regulation.
- G. These regulations became effective on March 7, 2006.

### **SECTION 3 - GENERAL PERMIT REQUIREMENTS**

### 3.1 PROHIBITION - GENERAL RULE

A person shall not construct, develop, erect, extend, install, modify, use, or occupy any land, building, structure or part thereof, in any manner which is not in conformity with the Regulations.

### 3.2 PROJECTS AND ACTIVITIES WHICH REQUIRE A ZONING PERMIT

A zoning permit shall be required prior to any land development as defined by statute and Article VIII of these regulations, including but not limited to the following activities:

- A. The construction or reconstruction of any building or structure, whether for personal residential, or commercial use;
- B. The installation of a mobile home or trailer, whether for residential or storage purposes, but not including a temporary trailer in use at an operational construction site;
- C. The construction or reconstruction of any accessory structure such as a garage, utility shed or barn;
- D. The enlargement, extension, or relocation of any existing structure, including the construction or enlargement of decks and porches;
- E. The structural alteration of any existing structure if the exterior dimensions will be changed;
- F. The construction of a septic system, except that the repair of a septic system does not require a permit but, must meet the requirements of the Regulations (See Article V, Section 3);
- G. The subdivision of a parcel of land, to ensure that all lots will conform to the minimum lot size and road frontage requirements of this Regulation;
- H. The change of use of any existing structure or parcel of land, except that benign home occupations will not require a permit (See Article V, Section 1-1.4);
- I. Commercial operations,
- J. Gravel or soil excavation, and
- K. The installation of a sign.

### 3.3 PROJECTS AND ACTIVITIES WHICH DO NOT REQUIRE A ZONING PERMIT

A zoning permit shall not be required for the following activities, including but not limited to:

- A. Modifications to a building interior provided there is no change in use;
- B. Repairs and Minor changes which will not affect the exterior dimensions or the height of the structure;
- C. Accepted agricultural and silviculture practices, including the construction of farm structures as defined by the Secretary of Agriculture and the Commissioner of Forests, Parks and Recreation, with the exception of processing or sawmill activities (See 24, §4413 (d) );
- D. Benign home occupations as defined in Article V, Section 1-1.4; and
- E. The construction or installation of a temporary structure, provided the temporary structure meets set back requirements.

## **ARTICLE II - ZONING DISTRICTS**

### **INTRODUCTION**

- A. The zoning districts were created on the basis of
  1. the desire to centralize growth within certain areas of the town;
  2. the capacity of soils and topography to accommodate development; and
  3. historical growth and development patterns in Duxbury.

- B. The Town of Duxbury is hereby divided into the following zoning districts:
1. Ecological Reserve Lands - lands with an elevation of 2500 feet and above.
  2. Timber Management and Wildlife Lands - Lands with an elevation above 1500 feet and below 2500 feet
  3. Forest-Recreation
  4. Rural-Agricultural I and II
  5. Village - Starting where Route 2 crosses the Winooski River (northeast boundary of the Village District), follow the east boundary of the Town Line to the point where the bridge over Crossett Brook crosses the east boundary, then turning at a right angle and commencing in a straight line to the point where the bridge over Crossett Brook crosses Route 100, continuing 500 feet along the same line in a westerly direction, then turning at a right angle and following the former Route 100 (Main Street) and to a point where the line meets the Winooski River.
  6. State Farm
  7. Flood Hazard Overlay Areas - areas designated as special flood hazards on the national Flood Insurance Program maps for the Town of Duxbury and any subsequent revisions.
- C. Unless otherwise defined in the Regulation above, the official Zoning map located in the Town Clerk's office is adopted as part of the regulations and shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town. If uncertainty exists or a dispute arises with respect to any boundary of the zoning districts, the applicant may appeal to the Development Review Board in accordance to Article III, Section 8. The Development Review Board shall determine the location of the boundary.
- D. Permitted Uses are those uses which are allowed in a district as long as a project or use complies with the requirements of these regulations.
- E. Conditional Uses are those uses which may be allowed in a district subject to review by the Development Review Board, in accordance with the standards and procedures set forth in these regulations.
- F. To the extent that a use refers to residential dwelling units, a dwelling unit is limited to one unit per minimum lot size, unless otherwise stated in these Regulations.

**SECTION 1 - ECOLOGICAL RESERVE LANDS DISTRICT** - above 2500 feet (described on page 38 of the Town Plan)

1.1 PERMITTED USES

1. Agricultural
2. Forestry, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted),
3. Low intensity non-commercial recreation
4. Noncommercial wildlife refuge

1.2 CONDITIONAL USES

1. Structures associated with low intensity noncommercial recreation, specifically, trail shelters and warming huts

1.3 SPECIAL CONSIDERATIONS

1. Impact on wildlife habitat and natural vegetative cover

2. Erosion control

**SECTION 2 - TIMBER MANAGEMENT AND WILDLIFE DISTRICT - 1500 feet to 2500 feet (described on pages 38 and 39 of the Town Plan)**

**2.1 PERMITTED USES**

1. Agricultural uses
2. Forestry uses, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted),
3. Noncommercial recreation
4. Noncommercial wildlife refuge

**2.2 CONDITIONAL USES**

1. Single family dwellings and one or two car garages
2. Accessory structures, such as, green houses and tool, utility or wood sheds
3. Seasonal dwellings
4. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Article VI Section 2)
5. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations, unless the single family dwelling which the accessory dwelling unit is appurtenant to, is already in existence.
6. Home occupations (See Article V, Section 1)
7. Structures associated with agricultural and forestry uses
8. Recreational structures

**2.3 STANDARDS**

Minimum lot size	25 acres per use
Minimum property line set back	40 feet
Minimum road set back	70 feet (from center of the traveled portion of all roads, 80 feet from the center of a 4 rod road)
Minimum street or road frontage	150 feet

**SECTION 3 - FOREST RECREATION DISTRICT - below 1500 feet (described on page 39 of the Town Plan)**

**3.1 PERMITTED USES**

1. Single family dwellings and one or two car garages
2. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations
3. Accessory structures, such as, green houses and tool, utility or wood sheds
4. Seasonal dwellings
5. Family day care home occupations and residential care or group home occupations (See Article V Section 1-1.4; Article VI Section 2)
6. Agricultural and associated structures
7. Forestry and associated structures, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted),
8. Noncommercial recreation
9. Noncommercial wildlife refuge
10. Reservoir

**3.2 CONDITIONAL USES**

1. Home occupations (See Article V, Section 1-1.4) except family day care home occupations and residential care or group home occupations
2. Public utilities
3. Cemeteries
4. Forestry structures associated with permanent processing and sawmill operations,
5. Gravel, rock or sand extraction
6. Residential only PUD (See Article IV, Section 1)

### 3.3 STANDARDS

Minimum lot size	5 acres per use
Minimum property line set back	40 feet
Minimum road set back	70 feet (from center of the traveled portion of all roads, 80 feet from the center of a 4 rod road)
Minimum street or road frontage	150 feet

## **SECTION 4 - RURAL AGRICULTURAL I AND II** (described on pages 39 and 40 of the Town Plan)

### 4.1 PERMITTED USES

1. Single and two family dwellings and one or two car garages
2. Accessory structures, such as, green houses and tool, utility or wood sheds
3. Seasonal dwellings
4. Agricultural and associated structures
5. Forestry and associated structures, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted),
6. Noncommercial recreation
7. Boarding houses accommodating no more than 4 boarders
8. Churches, convents and parish houses
9. Educational institutions
9. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations
10. Family day care home occupations and residential care or group home occupations (See Article V Section 1-1.4, Article VI Section 2)

### 4.2 CONDITIONAL USES

1. Home occupations (See Article V, Section 1-1.4) except family day care home occupations and residential care or group home occupations
2. Day care facilities which do not qualify as home occupations (See Article V, Sections 1 and 2)
3. Forestry structures associated with permanent processing and sawmill operations,
4. Boarding houses which accommodate 5 or more boarders
5. Community and social service organizations
6. Restaurants and diners
7. Refreshment or produce stands
8. Retail Stores
9. Storage Units (See Article V, Section 11)
10. Cultural centers
11. Cemeteries
12. Public utilities
13. Commercial recreation facilities

14. Travel trailer park
15. PUD (See Article IV, Section 1)
16. Multifamily dwellings, condominiums and similar developments in PUDs only
17. Medical clinics, nursing homes or congregate elder housing
18. Motel, hotels, inns
19. Mobile home parks in PUDs only
20. Extraction of sand, gravel or soil
21. Light industrial or commercial uses which are under 7,500 square feet
22. Light industrial or commercial uses between 7,500 and a maximum of 20,000 square feet, in a PUD, subject to the following:
  - a. The overall density shall not exceed 7,500 square feet per acre.
  - b. The total permitted square footage of all commercial or light industrial buildings in a single project shall not exceed a maximum of 20,000 square feet. Except that the total permitted square footage may be waived for a PUD involving the adaptive reuse of a building constructed prior to 1970.

#### 4.3 STANDARDS

Minimum lot size	1 acre per use 1/4 acre per unit for hotels, motels, inns, travel trailer parks
Maximum building coverage	35% per acre (except in a PUD, or otherwise noted)
Minimum property line set back	40 feet
Minimum road set back	70 feet (from center of the traveled portion of all roads, 80 feet from the center of a 4 rod road)
Minimum street or road frontage	200 feet

#### 4.4 SPECIAL CONSIDERATIONS

Rural Agricultural Districts are primarily residential.

Size and density of the project shall be consistent with the Town Plan.

Commercial activity shall be appropriate to the surrounding area and small enough so as not to place undue demands on the natural and fiscal resources of the Town.

### **SECTION 5 - VILLAGE** (described on page 41 of the Town Plan)

#### 5.1 PERMITTED USES

1. Single and two family dwellings and one or two car garages
2. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations
3. Accessory structures, such as, green houses and tool, utility or wood sheds
4. Agricultural and associated structures
5. Non-commercial recreation
6. Boarding houses accommodating no more than 4 boarders
7. Churches, convents and parish houses
8. Educational institutions
9. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Article VI Section 2)

#### 5.2 CONDITIONAL USES

1. Home Occupations except for family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4)
2. Day care facilities which do not qualify as home occupations

3. Boarding houses which accommodate 5 or more boarders
4. Community and social service organizations
5. Restaurants and diners
6. Refreshment or produce stands
7. Cultural centers
8. Retail stores
9. Cemeteries
10. Storage Units (See Article V, Section 12)
11. Public utilities
12. Commercial recreation facilities
13. Multi-family dwellings, condominiums and similar developments in PUDs only. (See Article IV, Section 1)
14. Medical clinics, nursing homes or congregate elder housing
15. Motel, hotels, inns
16. Mobile home parks in PUDs only
17. Extraction of sand, gravel or soil (See Article III, Section 7)
18. Light industrial or commercial uses which are under 7,500 square feet
19. Light industrial or commercial uses between 7,500 and a maximum of 20,000 square feet, in a PUD, subject to the following:
  - a. The overall density shall not exceed 7,500 square feet per acre.
  - b. The total permitted square footage of all commercial or light industrial buildings in a single project shall not exceed a maximum of 20,000 square feet. Except that the total permitted square footage may be waived for a PUD involving the adaptive reuse of a building constructed prior to 1970.

**5.3 STANDARDS**

Minimum lot size	1 acre per use 1/4 acre per unit for hotels, motels, inns, travel trailer parks
Maximum building coverage	35% per acre (except in a PUD, or otherwise noted)
Minimum property line set back	40 feet
Minimum road set back	70 feet (from center of the traveled portion of all roads, 80 feet from the center of a 4 rod road)
Minimum street or road frontage	90 feet

**5.4 SPECIAL CONSIDERATIONS**

1. Village District is primarily residential
2. Size and density of the project shall be consistent with the Town Plan
3. Commercial activity shall be appropriate to the surrounding area and small enough so as not to place undue demands on the natural and fiscal resources of the Town.

**SECTION 6 - STATE FARM** (described on page 41 of the Town Plan)

**6.1 PURPOSE**

The purpose of the regulations regarding the State Farm District are to facilitate limited development on the former State Farm property, with an emphasis on conservation and agriculture, as set forth in the “Vermont State Farm in Duxbury Preliminary MASTER PLAN” developed by the Vermont State Farm in Duxbury Project Committee (hereinafter MASTER PLAN), and as depicted on Sheet 4, PRELIMINARY MASTER PLAN dated November 20,

1995 prepared by the Cavendish Partnership for the Vermont Department of State Buildings (hereinafter PLAN).

## 6.2 SPECIAL PROVISIONS

1. Site Plan approval shall be required for all development except single family residences on approved lots. See Article III, Section 4.
2. Site Plan approval is required for a Planned Unit Development, but not for the individual lots which are part of that Planned Development.
3. For development other than single family dwellings, Site Plan Approval is required whenever the proposed development includes creation or modification to structures, parking areas, driveways, roads, or curb cuts.

## 6.3 SUB-AREAS

- A. This district shall be divided into the following sub-areas as shown on the PLAN and described in the MASTER PLAN:
  1. Crossett Hill-127 acre segment,
  2. Camels Hump/River Road--92 acres,
  3. River Road--28 acre segment (between River Road and the Winooski River),
  4. Plateau--34 acre segment,
  5. Wetland--101 acre segment,
  6. Middle School--34 acre segment,
  7. Barn/Buildings--37 acre segment, and
  8. Cemetery--11 acre segment.
- B. Development in each sub-area shall be consistent with the specific provisions as set forth below.

## 6.4 CROSSETT HILL - 127 ACRE SEGMENT

All residential development shall be a part of a Planned Unit Development (PUD) approved by the Development Review Board in accordance with Article IV, Section 1 of these Regulations.

### A. PERMITTED USES

1. Single family residences and Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations, located within a PUD only
2. Agriculture
3. Sustained yield forestry, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted)
4. Education not requiring structures
5. Recreation not requiring structures
6. Accessory structures, such as greenhouse, tool, utility or wood sheds
7. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4; Article VI, Section 2)

### B. CONDITIONAL USES

1. Home Occupations except for family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4)
2. Bed and breakfasts
3. Structures serving outdoor education
4. Structures serving outdoor recreation

### C. STANDARDS

Density: One Dwelling unit per ten (10) acres.

Lot Size:	No less than 2 acres for residential uses, no less than 25 acres for all other uses
Minimum Street or Road Frontage:	100 feet for residential uses, 200 feet for other uses.
Minimum Side and Rear Yard Setback:	40 feet for residential uses.
Minimum Front Yard Setback:	70 feet from centerline of traveled portion of road.
Required Setback from Crossett Hill Road:	200 feet from centerline of traveled portion of road.

6.5 CAMELS HUMP/RIVER ROAD- 92 ACRE SEGMENT

Land in this district is encouraged to be permanently reserved for conservation, recreation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.

A. PERMITTED USES

1. Agriculture
2. Sustained yield forestry, not including processing and sawmill operations (portable sawmills and chipping operations are permitted)
3. Education not requiring structures
4. Recreation not requiring structures
5. Temporary structures serving outdoor recreation, agriculture, or education.

B. NO CONDITIONAL USES

C. STANDARDS

Minimum Lot Size:	25 acres.
Minimum Street or Road Frontage:	Not applicable.
Minimum side and Rear Yard Setback:	Not applicable.
Minimum Front Yard Setback:	Not applicable.

6.6 RIVER ROAD - 28 ACRE SEGMENT

Land not allocated to building lots or roads shall be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.

A. PERMITTED USES:

1. Agriculture
2. Sustained yield forestry, not including processing and sawmill operations (portable sawmills and chipping operations are permitted)
3. Education not requiring structures
4. Recreation not requiring structures
5. Temporary structures serving outdoor recreation, agriculture, or education.

CONDITIONAL USES: Essential municipal services.

STANDARDS

Minimum Lot Size:	10 acres for essential municipal services, 25 acres for all other uses.
Minimum Street or Road Frontage:	200 feet.
Minimum side and Rear Yard Setback:	40 feet for essential municipal services.
Minimum Front Yard Setback:	70 feet from centerline of traveled portion of the road for essential municipal services.

6.7 PLATEAU-- 34 ACRE SEGMENT

A. PERMITTED USES

1. Recreation not requiring structures
2. Agriculture

CONDITIONAL USES

1. Extraction of sand, gravel and soil
2. Essential municipal services

STANDARDS

Lot Size:	No less than 10 acres for Essential Municipal Services, no less than 25 acres for all other uses.
Minimum street or road frontage:	200 feet.
Minimum side and rear yard setback:	40 feet or as set forth in Section 6.4 for extraction of sand, gravel or soil.
Minimum Front Yard Setback:	200 feet from centerline of traveled portion of road.

6.8 WETLAND--101 ACRE SEGMENT

Land in this district is encouraged to be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.

PERMITTED USES

1. Agriculture
2. Sustained yield forestry, not including processing and sawmill operations (portable sawmills and chipping operations are permitted)
3. Education not requiring structures
4. Recreation not requiring structures
5. Temporary structures serving outdoor recreation, education or agriculture

NO CONDITIONAL USES

STANDARDS

Minimum Lot Size:	25 acres per use
Minimum Street or Road Frontage:	200 feet
Minimum side and Rear Yard Setback:	Not applicable
Minimum Front Yard Setback:	Not applicable.

6.9 MIDDLE SCHOOL -- 34 ACRE SEGMENT

Site Plan Approval is required in accordance with all provisions of Article III, Section 4 of these regulations.

A. PERMITTED USES

1. Public school facilities,
2. Public recreation facilities,
3. Accessory structures.

CONDITIONAL USES: Agricultural uses.

STANDARDS

Minimum Lot Size:	10 acres per use.
Minimum Street or Road Frontage:	200 feet.
Minimum Side and Rear Yard Setback:	40 feet.
Minimum Front Yard Setback:	70 feet.
Minimum Setback from Route 100:	200 feet from centerline of traveled portion of road, except that a small portion of outdoor recreation

facilities may intrude on this setback if it well screened from the road.

6.10 BARN/BUILDINGS--37 ACRE SEGMENT

- A. All development shall be a part of a Planned Unit Development (PUD) approved by the Development Review Board in accordance with Article IV, Section 2.8 and 2.9 of these Regulations. Accordingly, Site Plan and Design Review Approval is required in accordance with all provisions of Article III, Section 4 of these regulations.
- B. PURPOSE. The purpose of this provision is to create a compact village center containing a mixture of commercial and public uses, and using the middle school recreation fields as a village green.
- C. PERMITTED USES
  - 1. Agriculture,
  - 2. Town offices,
  - 3. Accessory structures

CONDITIONAL USES

Small scale commercial, offices, public and semi-public uses consistent with the concept of a village center including but not limited to day care facilities not qualifying as home occupations, churches, community and social service organizations, restaurants and diners, retail stores, fire stations, light industry, educational uses, museums, cultural centers, small residences in upper stories, or small medical clinics.

STANDARDS

Minimum Lot Size:	1 acre per structure.
Minimum Street or Road Frontage:	50 feet.
Minimum side and Rear Yard Setback:	10 feet.
Minimum Front Yard Setback:	15 feet from edge of right-of-way.
Minimum Setback from Route 100:	200 feet from centerline of traveled portion of road.

6.11 CEMETERY -- 11 ACRE SEGMENT

PERMITTED USES

- 1. Cemetery plots,
- 2. Agriculture.
- B. CONDITIONAL USES
  - 1. One Single family residence, Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations, and Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Section 2);
  - 2. Light industrial uses, professional offices, public and semi-public uses consistent with the concept and purposes of the State Farm District. Development will be limited to just one of the above uses; however, an owner may sublet space within a building to a tenant for other light industrial, professional or public or semi-public uses.

SPECIAL CONDITIONS. Due to the high visibility and aesthetic value of the area (as described in the Town Plan), the following specific limitations on any development in this segment will apply:

- 1. Parking spaces shall be kept to a minimum and shall not exceed 3 spaces per thousand square feet of building, but further parking spaces may be approved by the Development Review Board upon application by the owner;

2. Parking areas shall not be located between the building and Route 100 and shall be screened from Route 100;
3. All buildings shall be appropriately landscaped;
4. Any building in this segment shall have a gable roof; further, building design will be subject to approval by the Development Review Board;
5. Insofar as is possible, the existing topography of the cemetery segment should not be disturbed;
6. The maximum building height shall not exceed 24 feet;
7. Any signs shall conform to Article V, Section 8 of this Ordinance with the following special provisions:
  - a. No sign shall be erected within the 200 foot setback of Route 100 other than a single sign at the junction of Route 100 and the cemetery road;
  - b. No setback from the cemetery road will be required for any sign.

**STANDARDS**

Minimum Lot Size:	There will be no subdivision of this Segment.
Minimum Street or Road Frontage:	100 feet.
Minimum side and Rear Yard Setback:	40 feet.
Minimum Setback from Route 100:	200 feet.
Minimum Setback from Old Route 100:	70 feet from the centerline of traveled portion of road.
Minimum Setback from Cemetery Road:	25 feet from centerline of traveled portion of road.

**SECTION 7 - FLOOD HAZARD OVERLAY DISTRICT**

**7.1 OVERLAY DISTRICT** - The standards of review in this section apply to those areas within the other districts of the Town of Duxbury (set forth in Article II, Sections 1 through 6 above) which meet the definition of Flood Hazard Area.

**7.2 FLOOD HAZARD DISTRICT DEFINITIONS**

**Flood hazard area** - areas designated as special flood hazards on the national Flood Insurance Program maps for the Town of Duxbury and any subsequent revisions. The Administrative officer shall determine the boundaries of the designated flood hazard area by scaling the distances on the FIA’s Boundary Maps. Any dispute regarding the boundary shall be resolved by the Development Review Board upon appeal, after the contestant has had reasonable opportunity to present his or her case to the Board.

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

**Flood way** - the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than one foot.

**Flood proofing** - any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which substantially reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**New construction** - construction of structures or filling commenced on or after the effective date of the adoption of a community's flood hazard bylaws.

**Substantial improvement** - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. However, the term does not include either

1. any project or improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

### 7.3 FLOOD HAZARD DISTRICT PURPOSE

The purpose of this section is to:

1. minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base and the extraordinary public expenditures and demands on public service that result from flooding; and
2. ensure that the design and construction of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage; and
3. encourage the Town of Duxbury to manage all flood hazard areas designated pursuant to 10 V.S.A. §753; and
4. maintain wise use of agricultural land in flood-prone areas; and (5) make the state and municipalities eligible for federal flood insurance.

### 7.4 FLOOD HAZARD DISTRICT - EFFECT ON ZONING REGULATIONS

Flood hazard area regulations may alter the uses otherwise permitted, prohibited or conditional in a flood hazard area under a zoning bylaw as well as the applicability of other provisions of that zoning bylaw. Where a flood hazard area bylaw and a zoning regulation both apply, compliance with the flood hazard area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area bylaw but not a zoning bylaw applies, the flood hazard area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard area permit shall be required for land development covered under the bylaw.

### 7.5 VARIANCES

The Development Review Board, after public hearing, may approve the repair, relocation, replacement or enlargement of a nonconforming structure within a regulated flood hazard area, subject to compliance with applicable federal laws and regulations, and provided that the following criteria are met:

1. The Development Review Board finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
2. The Development Review Board finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway; threaten the health, safety and welfare of the public or other property owners.
3. The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.
4. A copy of such a permit granted by the Development Review Board shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

### 7.6 PERMITTED AND CONDITIONAL USES IN FLOOD HAZARD AREAS

A. PERMITTED USES - The following are permitted uses within the flood hazard areas provided that they are not otherwise prohibited by the zoning regulations; and do not require the erection of structures, storage of materials and equipment, importing fill from outside the

flood hazard zone, do not obstruct floods, do not increase the flood levels within the flood way, or increase off-site damage potential:

1. Agricultural Uses - general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming, and forestry,
2. Recreational uses - parks, camps, picnic grounds, tennis courts, golf courses and boat launching sites, and
3. Residential uses, such as, lawns, gardens, unpaved areas and play areas.

B. **CONDITIONAL USES** - All uses not listed as permitted uses shall be considered conditional uses.

#### 7.7 FLOOD HAZARD DISTRICT - PERMIT PROCESS

The Zoning Administrator may issue a permit for permitted uses. No permit shall issue for Conditional Use(s) in a Flood Hazard Area without approval of the Conditional use(s) by the Development Review Board pursuant to Article III, Section 6 of these regulations.

1. No permit for new construction, substantial improvement, filling or installation of a residential structure shall be granted for a flood hazard area until a copy of the application is forwarded to the Vermont Agency of Natural Resources in accordance with 24 V.S.A. §4424(2)(D). No permit shall be issued prior to the expiration of thirty day notice to the Department of Environmental Conservation.
2. If the flood hazard area is adjacent to a river, stream, or brook, the Development Review Board shall forward a copy of the application to the Vermont Agency of Natural Resources and shall issue notice to adjacent communities. No permit shall be issued prior to the expiration of thirty day notice period.
3. The zoning permit is not valid until the applicant obtains all necessary state and federal permits prior to installation or construction.

#### 7.8 FLOOD HAZARD DISTRICT REVIEW CONSIDERATIONS, REQUIREMENTS AND STANDARDS

A. **SITE PLAN REQUIREMENTS** - No Zoning permit shall be issued for any subdivision, land development or planned unit development without prior site plan review and approval by the Development Review Board. The site plans for construction or activity within a Flood Hazard Area shall include the following:

1. A plan drawn to scale showing the nature, location, dimensions and elevation of the lot,
2. Existing and proposed structures, confirmation as to whether those structures contain a basement, the elevation of the lowest habitable floor including the basement,
3. Proposed fill and/or storage of materials,
4. Proposed flood proofing measures and the level to which any structure will be flood proofed,
5. The relationship of the proposal to the location of the channel,
6. The extent of the flood hazard area and the base flood elevation utilizing the best information available, and
7. If applicable, the base flood elevation for that portion which lies within Zone A.

B. **REQUIRED STANDARDS** - No permit shall issue for activities within a Flood Hazard Area unless the following requirements are met:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with material and utility equipment which is resistant to flood damage.

3. All new construction or substantial improvements shall be constructed by methods and practices which minimize flood damage.
4. All new construction and substantial improvements shall 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 flood conditions.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. All new and replacement wastewater disposal systems shall be designed to minimize or eliminate infiltration of flood waters into the system, as well as, discharges to flood waters.
7. On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
8. All subdivision proposals shall include adequate drainage, and shall have public utilities and facilities such as sewer, gas electrical and water systems located and constructed to minimize flood damage.
9. New residential construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
10. New non residential construction or substantial improvement of any commercial, industrial or other non residential structure shall either have the lowest floor, including the basement, elevated to the base flood elevation or; together with attendant utility and sanitary facilities be flood proofed. Any structure below the base flood level must be watertight with substantially impermeable floors and walls which have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance. A registered professional engineer or architect shall certify that the standards of this Subsection are satisfied.
11. All new construction or 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect. The designs must meet or exceed the following criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
12. Development within the flood way 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.
13. 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.
14. The development within the floodway shall be consistent with the Town Plan and the character of the area affected.

7.9 FLOOD HAZARD DISTRICT LIABILITY DISCLAIMER

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted with in such districts will be free from flooding or flood damage. These regulations are not a guarantee of protection against flooding or flood damage. The Town of Duxbury or any town official or employee shall not be not liable for any flood damages or for any actions or decisions lawfully made under this Regulation.

**ARTICLE III - ZONING ADMINISTRATION AND THE PERMIT PROCESS**

**SECTION 1 - PLANNING COMMISSION**

1.1 PLANNING COMMISSION.

The Select Board shall appoint the members of the Duxbury Planning Commission pursuant to 24 V.S.A. §4322 and 4323.

- 1 The Planning Commission shall consist of no fewer than three and no more than nine members.
- 2 The Planning Commission shall adopt procedures, hold public meetings, conform with open meeting requirements, record and file minutes, and act in conformance with the Regulations and the Act.
- 3 The Planning Commission may submit recommendations annually to the Select Board for the capital budget and program, that shall be in conformance with the municipal plan.

1.2 PROMULGATION, AMENDMENTS AND REPEALS OF THE REGULATION

1. The Zoning Regulations and the Town Plan shall be prepared by the Planning Commission and presented to the Select Board. An amendment or repeal of a bylaw may be prepared by the Planning Commission or any other person or body.
  - a. The Planning Commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment, or repeal.
    - i. At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report (see below) shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:
      1. The Chairperson of the Planning Commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.
      2. The executive director of the regional planning commission.
      3. The Department of Housing and Community Affairs within the Agency of Commerce and Community Development.
2. The Planning Commission shall prepare a report in accordance with 24 §4441 (c). The report shall include:
  - a. an explanation
  - b. a statement of purpose
  - c. findings regarding whether the proposal, conforms with the goals of the Town Plan, is compatible with proposed future land uses and densities of the Town Plan

and carries out, if applicable, any specific proposals for planned community facilities.

- d. The Planning Commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the Select Board. However, if requested by the Select Board or if a proposed amendment was supported by a petition signed by not less than five percent of the voters of Duxbury, the Planning Commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the Select Board, with any recommendation or opinion it considers appropriate. Simultaneously with the submission, the planning commission shall promptly file with the clerk of Duxbury a copy of the proposed bylaw, amendment or repeal and the written report for public review.
3. Not less than fifteen (15) days or more than one hundred twenty (120) days after the proposed bylaw, amendment, or repeal is submitted to the Select Board, the Select Board shall hold the first of one or more public hearings. Public hearings shall be conducted in accordance with public notice requirements set forth in Article III, Section 5 of these Regulations.
4. The Select Board may change the proposed ordinance or bylaw, amendment, or repeal but shall not do so less than fifteen (15) days prior to the public hearing. If the Select Board at any time makes substantial changes in the concept, meaning or extent of the bylaw, amendment, or repeal, the Select Board shall reissue public notice for a new public hearing or hearings.
5. The Regulations shall be effective upon the affirmative vote of legal voters of the Town of Duxbury by Australian ballot at a regular or special meeting duly warned and held.
6. Time for action. If the proposed bylaw, amendment or repeal is not approved or rejected within one year of the date of the final hearing of the planning commission, it shall be considered disapproved unless five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment or repeal and the petition is filed within 60 days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw, amendment or repeal by Australian ballot.

## **SECTION 2 - ZONING ADMINISTRATOR**

### **2.1 APPOINTMENT**

The Duxbury Planning Commission shall nominate and the Select Board shall approve and appoint an Administrative Officer to serve for a term of three (3) years. The Administrative Officer shall administer the Regulations, and shall act in conformance with the Regulation. The Administrative Officer may be removed for cause at any time by the Select Board after consultation with the Planning Commission

### **2.2 GENERAL RULE**

The Administrative Officer may process and issue or deny a Zoning permit, in accordance with the regulations, for projects and activities which do not require Development Review Board approval, as set forth in Section 3 of this Article III below.

### **2.3 PERMIT APPLICATION PROCESS FOR THOSE ACTIVITIES WHICH DO NOT REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL**

1. A Zoning Permit Application may be obtained from the Town Clerk or the Administrative Officer. All applications must be complete and accompanied by the required fee. The Zoning Administrator shall promptly forward those applications which require Development Review Board approval to the Development Review Board.
2. No later than 30 days after the receipt of a completed zoning permit application, the Administrative Officer shall act to approve or disapprove the zoning permit application. If the Administrative Officer fails to act with regard to an application within thirty (30) days of the determination that an application is complete, a permit shall be issued on the thirty-first day.
3. A zoning permit shall expire if the work described in the permit has not commenced within one year of the date of issuance.
4. Within three (3) days of issuing the permit, the Administrative Officer shall provide a copy of the permit to the Duxbury Town Listers and to the Development Review Board of Adjustment; and shall post a copy of the permit at the Town Clerks office. The permit shall remain posted for fifteen (15) days and the permit will not become effective until the fifteen (15) day period has passed.
5. Upon issuing the permit, the Administrative Officer shall direct the applicant to post a copy of the permit within three (3) days of the issuance of the permit, within view of the public right of way most nearly adjacent to the subject property, until the fifteen (15) day appeal period has passed. The applicant is advised that the failure to post the permit may allow an interested party to question the validity of the permit.
6. Each permit shall contain a statement of the period of time during which the permit may be appealed. No permit shall become effective until the time for appeal has run, and if a notice of appeal has been filed a permit shall not become effective until final adjudication.
7. No zoning permit shall be valid until all required state and federal permits are obtained by the applicant.

#### 2.4 CERTIFICATE OF OCCUPANCY

1. No building erected and subject to a permit shall be occupied or used in whole or in part, for any purpose whatever, until a certificate of occupancy is issued by the Administrative Officer, certifying that the construction conforms to the approved plans and specifications, and the requirements of these regulations.
2. The Certificate of Occupancy requirement is not intended to prevent the owner of a residence from extending an approved project over time or engaging in ongoing home improvements, particularly improvements which are cosmetic in nature. This section is intended to prevent the occupation of structures under the following conditions, including but not limited to:
  - a. Structures or uses which are not in compliance with conditional use conditions imposed by the Development Review Board,
  - b. Structures which pose a threat to human health or safety, and
  - c. Structures and uses do not conform with these zoning ordinances and the town plan.
3. Temporary Certificate of Occupancy - Upon request of the owner or his or her authorized representative, the Administrative Officer may issue a temporary certificate of occupancy for part of a building for a time period of up to three years.

The Temporary Certificate of Occupancy may be reissued for good cause at the discretion of the Administrative Officer.

4. A Certificate of Occupancy may be revoked or canceled by the Administrative Officer in the event that an owner or occupant is in violation of these regulations.

### **SECTION 3 - DEVELOPMENT REVIEW BOARD**

#### **3.1 ESTABLISHMENT AND APPOINTMENT OF DEVELOPMENT REVIEW BOARD**

1. Development Review Board is hereby established.
2. The Members of the Development Review Board shall be appointed by the Select Board in accordance with 24 V.S.A. §4460. The Select Board shall appoint no fewer than five and not more than nine members to the Development Review Board. The Select Board may also appoint alternate members to the Development Review Board.
3. The Development Review Board shall adopt procedures, adopt rules of ethics with respect to conflicts of interest, conform with open meeting requirements, and act in conformance with the Regulations and the Act, and 24 V.S.A. §4461 as follows.
  - a. Hold public meetings at the call of the chairperson at such times as the Board determines.
  - b. All meetings shall be open to the public, except for deliberative and executive sessions.
  - c. The board shall keep minutes of the meetings. The minutes shall indicate the voting record of each member and set forth a record of examinations and other official actions. The minutes shall be filed with the town clerks office.
4. A quorum is required for official action. A quorum shall constitute not less than a majority of the board.
5. The board may examine evidence bearing on the matter, administer oaths and take sworn testimony on a matter, and require specific proof.

#### **3.2 DEVELOPMENT REVIEW BOARD POWERS**

The Board shall have the following powers:

1. To hear and decide applications for conditional use permits;
2. To approve or deny applications for expansions or alterations of noncomplying structures or uses or, to hear and grant or deny a request for a variance from the literal requirements of the Regulations;
3. Review of right-of-way or easement for land development without frontage in accordance with Article V, Section 6;
4. To hear and decide applications for gravel extraction;
5. To approve or deny zoning permit applications regarding flood hazard areas;
6. To hear and decide appeals taken under the Regulations, including but not limited to the allegation that there is a material error in any act, order, requirement, decision or determination by the Administrative Officer in connection with the interpretation and enforcement of the Ordinance;
7. To conduct site plan reviews; and
8. To hear and grant or deny a request for a zoning permit, including but not limited to requests for a zoning permit for planned unit development or subdivision.

#### **3.3 PROJECTS AND ACTIVITIES WHICH REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL PRIOR TO A ZONING PERMIT**

1. GENERAL RULE. In general, unless otherwise specified in these regulations, the prior approval of single family homes, two family homes, agricultural and forestry uses generally do not require approval by the Development Review Board.
  2. No zoning permit may be issued by the Administrative Officer for the following activities or projects, with out prior approval by the Development Review Board:
    - a. Conditional Uses; including
      - i. Home occupations other than benign home occupations and those home occupations that are specified as permitted within each district,
      - ii. Development and sale of existing small lots
      - iii. Development on lots with no frontage on, or access to, public waters or a private or public road.
    - c. Expansions of nonconforming uses or structures as specified in these regulations
    - d. Planned Unit Development (Article IV, Section 1)
    - e. Variances (Article III, Section 8.5)
  3. The procedures for application and approval are set forth in each section of the regulations which discuss the specific standards of review.
- 3.4 DEVELOPMENT REVIEW BOARD DECISIONS
1. The Development Review Board may recess any application process pending the submission of additional information.
  2. The Development Review Board shall issue a decision within forty five (45) days of the warned public hearing required for conditional use determinations, variances, and administrative officer appeals. The failure to issue a decision will be deemed approval effective on the 46<sup>th</sup> day.
  - 3.. The Development Review Board shall issue its decision in writing and shall include a factual bases and a statement of conclusions. The decision shall be mailed via certified mail to the applicant and/or the appellant in an appeal. Copies of the decision shall be forwarded to all persons appearing and having been heard at the hearing, and shall be filed with the Administrative Officer.

## **SECTION 4 - SITE PLAN APPROVAL AND REVIEW**

### **4.1 SITE PLAN APPROVAL PROCEDURE**

1. PROJECTS WHICH REQUIRE SITE PLAN REVIEW. No Zoning permit shall be issued for any subdivision, land development, or planned unit development without prior site plan review and approval by the Development Review Board. Site plan approval may be waived for minor projects, provided that the projects are approved by the Development Review Board. The Development Review Board may solicit comments from the Planning Commission during the review process.
2. NOTICE REQUIREMENTS. The Development Review Board shall require the applicant to notify all owners of adjoining property subject to the development and organizations that hold easements on the applicant's property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal. The applicant shall provide the Development Review Board with proof of notice, via certified or registered mail, provided to adjoining land owners. The applicant shall provide the Development Review Board with the names and addresses

- of the adjoining land owners, a copy of the notice provided to those land owners, and certification that the notice was forwarded to the land owners.
3. SITE PLAN REQUIREMENTS. The applicant shall submit three (3) sets of site plan maps, to scale, and supporting data to the Development Review Board. As relevant to the plan, the site plan shall include:
    - a. Name and address of the owner(s) of record and of adjoining lands.
    - b. Name and address of the person or firm preparing the map, scale of the map, north point, and date.
    - c. Survey of the property showing existing features, including contours, property lines, structures, streets, utility easements, rights of way, land use and deed restrictions.
    - d. Site plan showing proposed structure(s), location of driveway(s), location of septic system(s), traffic circulation, parking and loading spaces, pedestrian walks, landscaping plans, including site grading, landscape design, and screening.
    - e. Construction sequence and time schedule for completion of each phase of the construction and landscaped area of the entire project.
  4. SITE PLAN REVIEW PROCEDURE. Within sixty (60) days of the receipt of a completed plan, the Development Review Board shall:
    - a. Meet with the applicant to discuss the plan;
    - b. Visit the site;
    - c. Conduct a public hearing on the permit application;
    - d. Provide at least seven (7) days public notice of the hearing date, by publication in a paper of general daily or weekly circulation in the municipality and posting notice in three (3) public places within the municipality;
    - e. Mail notice of the public hearing to the applicant via first class mail fifteen days prior to the hearing.
    - f. The Development Review Board shall render a decision within forty-five days of the public hearing as set forth in Article III Section 3.3.
  5. The Development Review Board may request further information relevant to the site plan, the proposed land development, and the site plan approval standards, at any time during the review process. A request for further information shall stay the forty-five (45) day review period.

#### 4.2 SITE PLAN APPROVAL STANDARDS

1. The Development Review Board shall consider the following factors and objectives in approval or disapproval of the site plans:
  - a. The zoning districts and standards;
  - b. The Town Plan;
  - c. The Regulations and its purposes;
  - d. Maximum safety of vehicular circulation between the site and the street network. Particular consideration shall be given the visibility of intersections, traffic flow and control, pedestrian safety and access in case of emergency;
  - e. Adequacy of circulation, parking, and loading facilities, and
  - f. Adequacy of landscaping, screening, and setbacks with regard to achieving the maximum compatibility and protection of the adjacent properties. Particular consideration may be given to the preservation of existing vegetation, visibility of unsightly areas from the road and adjoining properties, and the suitability of

landscaping materials to meet seasonal and soil conditions. Attention shall be given to the effect of noise, glare or odors on adjoining properties.

2. The Development Review Board may impose conditions on the land development relevant to the factors and objectives listed above.

#### 4.3 MINOR PROJECTS

**PROCEDURE FOR MINOR PROJECTS.** The Development Review Board may waive the public hearing requirement for Site Plan Review if the Board determines that the application involves a minor activity or project, and the public hearing requirement is not otherwise mandated by statute and these regulations. For example, the process for minor projects is not available for appeals and conditional use applications.

1. Minor projects or activities are consistent with the Town Plan and these regulations, consistent with the neighborhood and district, do not create nuisance issues or additional traffic, and generally do not involve construction, erection or installation of additional structures, except that minimal changes to the physical contours of a structure may be minor. Examples of a projects are the subdivision and conveyance of a parcel to the owner of an adjoining parcel without any construction or change of use, or the raising or extension of a roof during replacement of the roof on a preexisting structure no more than 2 feet as long as it does not violate set back requirements.
2. In the event that the Board determines that the project is minor, the Board may require the applicant to notify adjoining landowners of the project and may set a public hearing if so requested by interested parties.
3. If a project is determined to be minor, the Development Review Board shall render a decision on the application within forty-five (45) days of receipt of a completed zoning permit application or the final public hearing date.

### **SECTION 5 - PUBLIC NOTICE REQUIREMENTS**

1. In accordance with 24 V.S.A. §4464, unless otherwise specifically stated such as for site plan reviews set forth in Article III Section 4, any public notice required for public hearing under this chapter shall be given not less than fifteen (15) days prior to the date of the public hearing by:
  - a. the publication of the date, place and purpose of the hearing in a newspaper of general publication in the municipality affected;
  - b. the posting of the same information in three or more public places within the municipality; and
  - c. compliance with subsection 2 of this section.
2. Where a hearing is called concerning a plan or bylaw adoption, amendment, or repeal or any capital budget and program or amendment thereof, the municipality shall also either:
  - a. publish and post, as provided in subsection (A) of this section, either the full text of the proposed material, or a notice including:
    - i. a statement of purpose;
    - ii. the geographic areas affected;
    - iii. a table of contents or list of section headings; and
    - iv. a description of a place within the municipality where the full text may be examined; or
  - b. make reasonable effort to mail or deliver copies of the full text, or a concise summary of the text as provided for in subdivision (B)(1) of this section, of the proposed

material and the public hearing notice to each voter, as evidenced by the voter checklist of the municipality, and to each owner of land within the municipality, as evidenced by the grand list of the municipality.

3. No defect in the form or substance of any public hearing notice under this chapter shall invalidate the adoption, amendment or repeal of any plan, bylaw or capital budget and program. However, the action shall be invalidated if the notice is materially misleading in content or fails to include one of the elements required by subdivision (B)(1), or if the defect was the result of a deliberate or intentional act.

## **SECTION 6 - CONDITIONAL USES**

### **6.1 GENERAL RULES**

Conditional Uses are set forth for each Zoning District in Article II, Sections 2 through 7 of the Regulations. No Zoning permit shall be issued for any conditional use without review and prior approval of the Development Review Board.

### **6.2 CONDITIONAL USE REVIEW PROCEDURE**

Within sixty (60) days of the receipt of a completed zoning permit application requesting a zoning permit the Development Review Board shall conduct a public hearing or hearings regarding the request. The Development Review Board may request further information relevant to the zoning permit application and review, at any time during the public hearing process. A request for further information shall stay the sixty day public hearing period.

### **6.3 DECISION**

Within forty five (45) days of the final public hearing date, the Development Review Board shall render a decision on the request for a conditional use permit application. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant.

### **6.4 STANDARD OF REVIEW - GENERAL CONSIDERATIONS**

In order to approve a conditional use application, the Development Review Board must find that the incremental and cumulative impacts of each conditional use application do not have an undue adverse impact on the following factors and objectives:

1. The capacity of existing or planned community facilities;
2. The character of the area affected;
3. Traffic on the roads and highways in the vicinity;
4. The Regulations in effect and its purposes;
5. The Town Plan;
6. Utilization of renewable energy sources;
7. The zoning districts and standards;
8. The impact on neighboring areas; and
9. The capacity of the land to support the use.

### **6.5 STANDARD OF REVIEW - SPECIFIC CONSIDERATIONS**

The Development Review Board shall also consider the following specific factors:

1. Specific performance standards as specified by state or federal regulatory agencies relating to nuisance issues such as, dust, odor, vibrations, and noise; and
2. The goals and objectives of the Town Plan, as it relates to the zoning district which is the subject of the application. If possible the project shall:
  - a. Place buildings within wooded portions or on the edges of fields in order to preserve open land,
  - b. Screen buildings with landscaping,
  - c. Locate buildings so as not to obstruct scenic vistas from public roads or lands,

- d. Minimize curb cuts,
- e. Screen or locate parking areas out of sight,
- f. Place utility lines under ground or locate utility lines so as not to obstruct scenic vistas from public roads or lands, and
- g. Maintain utility lines so as to preserve natural vegetative cover.

#### 6.6 CONDITIONS

The Development Review Board may impose conditions on the conditional use relevant to the factors and objectives listed above, including but not limited to, the following:

1. The installation, operation, and maintenance of such devices and/or such methods of operation as may, in the opinion of the Board, be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration or similar nuisance. Performance standards, if applicable, shall be as specified by the appropriate state or federal regulatory agencies.
2. The extent and location of open spaces between the proposed use and surrounding properties.
3. The requirement that all work and storage of work related materials be under cover.
4. Off street parking facilities with a maximum of one car per person of maximum projected use for off-street parking
5. Triple minimum lot size, triple distance from adjacent or nearby uses, and triple set back from the road.
6. Landscaping and fencing to maintain the character of the neighborhood.
7. Design and location of signs, outdoor lighting, structures, and service areas to maintain the character of the neighborhood.
8. Water supply and sewage disposal systems designed and installed in accordance with state regulations.

#### 6.7 PRE EXISTING NONCONFORMING USES AND STRUCTURES

The expansion, enlargement, increase, extension, or reconstruction of a nonconforming use or a non conforming structure requires Development Review Board review and approval in accordance with the Conditional Use procedure and review standards as set forth above, Article III, Sections 6.1 to 6.6.

1. **GENERAL RULE.** Any nonconforming uses or non complying structures shall not be altered, moved, enlarged, extended, reconstructed or increased without prior approval of the Development Review Board. Each nonconforming use and/or structure shall be independently evaluated for conformance with the Regulations.
2. **STANDARDS AND RULES FOR DEVELOPMENT REVIEW BOARD APPROVAL.** The Development Review Board shall apply the following standards and rules of review, in addition to the conditional use standards.
  - a. A nonconforming use or structure may be altered or expanded provided that the expansion does not increase the degree of non-compliance and is consistent with the character of the neighborhood and the District, as well as, the Town Plan.
  - b. A nonconforming use or structure may be altered or expanded no more than 25% of its area, as it existed on the effective date of this regulation.
  - c. A non conforming use or structure cannot be reestablished if the use or structure has been discontinued for a period of one year, regardless of the intentions of the owner or operator.
  - d. A nonconforming use or structure shall not be restored after damage, unless the use or structure is reinstated or restored within a period of one year.
  - e. The Development Review Board may approve an extension of the one year deadline for the resumption or restoration of a nonconforming use or structure, for good cause.

- f. The Development Review Board shall apply the standards of pre-existing small lots as set forth in Article V, Section 9, if applicable.
- g. The Development Review Board may authorize a special exception to the erection or alteration of a building on any lot, which is not of minimum size or is of such unusual dimensions that the owner would have difficulty providing the required open spaces for the zoning district, and is held in single and separate ownership, on the effective date of the Regulation.

**SECTION 7- EXTRACTION OF SAND GRAVEL OR SOIL**

7.1 GENERAL RULE

No removal of sand, gravel or soil for sale, except where incidental to the construction of a building on the same premises shall be permitted unless approved after public hearing (in accordance with Article III, Section 5) by the Development Review Board, in accordance with the procedures and standards set forth for Conditional Uses in Article III, Section 6. The Development Review Board shall consider all appropriate standards applicable to the project.

7.2 REQUIREMENTS FOR APPROVAL

In order to obtain approval, the applicant shall obtain and provide proof of the following to the Development Review Board:

- 1. A performance bond sufficient to secure the proper closure and redevelopment of the site when extraction activities cease;
- 2. A closure plan which ensures that site conditions will be safe, attractive, and consistent with surrounding properties, after extraction activities cease;
- 3. An operations plan including the following provisions:
  - a. A prohibition against the creation of steep slopes, spoil banks and pits,
  - b. Erosion control mechanisms,
  - c. Provisions to prevent discharges to nearby surface waters or drainage systems,
  - d. The prevention of the migration of materials from the site to adjoining properties or right of ways,
  - e. Provisions for regrading and seeding of slopes and other disturbed areas,
  - f. Set backs of 200 feet from any property line or public right of way for any excavation, blasting or stockpiling of materials,
  - g. Set backs of 300 feet from any property line or public right of way for any power activated sorting machinery, and
  - h. A description of the dust elimination devices on or attached to the equipment.

7.3 CONSIDERATIONS AND CONDITIONS

- 1. In deciding whether to approve or disapprove an application for gravel or soil removal, the Development Review Board shall consider the following factors:
  - a. The zoning districts and standards,
  - b. The goals and objectives of the Town Plan, as it relates to the zoning district which is the subject of the application and the impact on neighboring areas,
  - c. The capacity of the land to support the use,
  - d. The impact of the proposed project on the roads and highways in the vicinity, and
  - e. The impact of the proposed project on natural resources and scenic areas.
- 2. No extension of an existing non-conforming operation shall be permitted.
- 3. The Development Review Board may require such conditions as it deems are necessary to protect human health, safety, and welfare; reduce nuisance, and maintain the character of the neighborhood.

## **SECTION 8 - APPEALS**

### **8.1 WHO MAY APPEAL - INTERESTED PARTIES**

Any “interested party” may appeal a decision or act by the Administrative Officer to the Development Review Board. Appeals to the Development Review Board shall be in writing within fifteen (15) days of the act or decision, by filing a notice of appeal with the Town Clerk or the Secretary of the Development Review Board. An interested party is defined as follows:

1. A person owning title to property affected by the regulation, alleging that the regulation imposes unreasonable or inappropriate restrictions of present or potential use of the property under the particular circumstances of the case.
2. The Town of Duxbury or any adjoining municipality or a municipal conservation commission.
3. A person owning or occupying property in the immediate neighborhood which is the subject of the decision or act, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the act or decision is not in accord with the policies, purposes or terms of the Regulations and the Town Plan.
4. Any ten persons who may be a combination of voters or real property owners within the town of Duxbury who, by signed petition to the Development Review Board contend that the plan or the regulation which is at issue in any appeal, if granted, will not be in accord with the policies, purposes or terms of the Town Plan. The petition shall designate one person to serve as a representative.
5. Any department and administrative subdivision of the State of Vermont owning property or any interest therein within a municipality in the Town of Duxbury or any adjoining municipality, and the State of Vermont Agency of Commerce and Community Development.

### **8.2 PROCEDURE FOR APPEAL**

1. **REQUIREMENTS OF A NOTICE OF APPEAL.** A notice of appeal shall include the following information:
  - a. The name and address of the appellant;
  - b. A brief description of the property which is the subject of the appeal;
  - c. Reference to the regulatory provisions applicable to the appeal;
  - d. Relief requested by the appellant;
  - e. Proof of notice provided to parties; and
  - f. Alleged grounds for the relief requested.
2. **APPEAL WITHOUT HEARING.** The Development Review Board may reject an appeal without a hearing and render a written decision with findings of fact, within ten (10) days of the filing of the appeal, if the issues raised by the appellant on appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of the appellant.
3. **PROCEDURE.** Within sixty (60) days from the filing of the appeal, unless the Development Review Board issues a decision pursuant to Section 8.2 above, the Development Review Board shall conduct a public hearing of the appeal. The Development Review Board shall:
  - a. Set the date and place for the public hearing;

- b. Provide at least fifteen days public notice of the hearing, by publication in a paper of general daily or weekly circulation in the municipality and posting notice in two public places within the municipality; and
  - c. Mail notice of the public hearing to the applicant via first class mail fifteen days prior to the hearing.
  - d. The Development Review Board shall also require the applicant to notify all owners of adjoining property subject to the development and organizations that hold easements on the property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal.
4. **DECISION.** Within forty five (45) days of the public hearing date, the Development Review Board shall render a decision on the appeal. The decision shall state the time period for appeal of the decision of the Development Review Board. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant. The Board shall within the forty five (45) days of the public hearing:
- a. Forward a copy of the decision to the appellant, applicant, and any interested parties via certified mail;
  - b. Forward copies of the decision to each attendant at the public hearing on the appeal; and
  - c. Provide copies to the Administrative Officer and the Town Clerk's Office.

### 8.3 STAY OF ENFORCEMENT

1. An appellant may request a stay of enforcement of the regulatory provisions which are the subject of the appeal by filing a request for stay along with the notice of appeal. The appellant shall file the request with the Development Review Board. The request for stay of enforcement shall be in writing and shall state the grounds for the request by affidavit.
2. The Development Review Board may, after public hearing, grant a stay of enforcement of the regulatory provisions, if the Board finds that irreparable harm or irremediable damage will directly result if the stay is denied.
3. Within fifteen (15) days that the notice of appeal and request for stay is filed with the Development Review Board, the Board shall render a decision. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant. The Board shall within the fifteen (15) days:
  - a. Provide fifteen (15) days notice of a public hearing by publication in a paper of general daily or weekly circulation in the municipality and posting notice in two public places within the municipality;
  - b. Provide notice to the appellant by mail;
  - c. Conduct a public hearing;
  - d. Render a decision;
  - e. Forward a copy of the decision to the appellant via certified mail;
  - f. Forward copies of the decision to each attendant at the public hearing on the appeal; and
  - g. Provide copies to the Administrative Officer and the Town Clerk's Office.
4. The Board may grant a stay of enforcement, under such terms and conditions, including, without limitation, a bond to be furnished by the appellant.
5. Any stay granted by the Development Review Board shall expire after the expiration of the time to appeal to the Environmental Court.

#### 8.4 EXCLUSIVITY AND FINALITY OF REMEDY

1. The exclusive remedy of an interested party with respect to any decision or act taken, or any failure to act, under the Regulations shall be the appeal to the Development Review Board, and the appeal to the Environmental Court from an adverse decision upon such an appeal.
2. The failure of an interested party to appeal, shall render all interested parties bound by the decision or act of the Zoning Administrator, such provisions, or such decisions of the Board. The interested parties shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision of the Board in any proceeding, including, without limitation, any proceeding brought to enforce this Regulation.

#### 8.5 VARIANCES

1. The Development Review Board shall hear an appeal wherein a variance of a zoning regulation is the requested relief of the appellant. The Development Review Board shall grant a variance and find in favor of the appellant, if the Board finds all of the following facts in its decision on the appeal:
  - a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topography or other physical conditions peculiar to the 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 where the property is located;
  - b. That because of such physical circumstances or conditions; there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property;
  - c. That such unnecessary hardship has not been created by the appellant;
  - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to public welfare; and
  - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the zoning regulation and of the Town Plan.
2. In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions it deems necessary and appropriate to implement the purposes of this bylaw and the Town Plan then in effect.

#### **SECTION 10 - RECORDS**

The Administrative Officer shall keep on file and available to the public a full and accurate record of all applications received, permits issued, and violations committed during his or her term of office, and the term of his or her predecessor. No later than thirty days from the date of issuance of a municipal land use permit, the appropriate municipal officer shall:

1. File a copy of the municipal land use permit with the town clerk for recording in the municipal land records, and
2. File a copy of the municipal land use permit in a location where all land use permits shall be maintained.

## **SECTION 11 - ENFORCEMENT**

### 1.1 GENERAL RULE

If any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of the zoning Regulations, the Administrative Officer shall, with prior approval of the Select Board of the Town of Duxbury, initiate any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any act, conduct, business or use constituting a violation.

### 1.2 PENALTIES

Any person who violates the Regulations, shall be fined not more than the statutory limit as set forth in 24 V.S.A. §4451 for each offense. Each day that a violation is continued shall constitute a separate offence. Fines shall be paid to the Town of Duxbury.

### 1.3 PROCEDURE

Prior to any enforcement action or imposition of fines, the Administrative Officer shall:

1. Provide at least seven (7) days notice to the alleged violator via certified mail;
2. The notice shall describe the violation and the relevant regulation, state that the alleged violator has seven (7) days to cure the violation, and state that the violator will not be entitled to an additional warning notice for any continuing violation after the expiration of the seven (7) days.
3. Enforcement shall be initiated within fifteen (15) years of the date that the alleged violation first occurred.

### 1.4 DEFAULT

If an alleged violator defaults on payment of a fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such a fine.

### 1.5 STAY OF ENFORCEMENT

See Article II Section 8-8.3 for procedures regarding stay of enforcement.

## **SECTION 12 - APPEAL FROM A DECISION OF THE DEVELOPMENT REVIEW BOARD**

Any interested party (See Article III, Section 8-8.1) may appeal a decision of the Development Review Board to the Environmental Court. A notice of appeal shall be within thirty (30) days of the Board Decision in accordance with the Act and applicable state law and court procedure.

## **ARTICLE IV - PLANNED UNIT DEVELOPMENTS**

### **SECTION 1 PLANNED UNIT DEVELOPMENT**

#### 1.1 PURPOSE

1. The purposes of the planned unit development (PUD) provision are to:  
encourage attractive communities,
2. encourage innovation in design and layout and more efficient use of land,
3. to facilitate the adequate and economic provision of streets and utilities,
4. to preserve the natural and scenic qualities of open land, prime agricultural and forestry soils, wildlife habitat and scenic vistas,
5. to provide for a mixture of compatible residential and commercial uses at different densities, and
6. to provide for the development of existing lots consistent with the Town Plan, which because of physical, topographical or geological conditions could not otherwise be developed.

## 1.2 GENERAL RULE

In accordance with the provisions set forth in Section 4417 of the Act, and where permitted in the zoning districts, the modification of the district regulations by the Development Review Board is permitted simultaneously with site plan approval under the following procedures:

## 1.3 SITE PLAN REQUIREMENTS

The applicant shall submit a site plan to the Development Review Board. The Site Plan shall include:

1. the location, height and spacing of buildings,
2. open spaces and their landscaping,
3. streets, driveways and off-street parking spaces,
4. unique natural or manmade features, and physical conditions of the site,
5. a statement setting forth the nature of all proposed modifications, changes or additions of or to existing zoning regulations, and
6. a construction schedule indicating the proposed mixture of residential, commercial and industrial properties to be developed in a given calendar year for Development Review Board Approval.

## 1.4 APPLICATION PROCEDURE

The Development Review Board shall act to approve or disapprove any such plan within sixty (60) days after the date upon which it receives the proposed plan. (See Article III, Section 4.1 D).

## 1.5 PERMITTED USES

Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

## 1.6 REVIEW STANDARDS

1. GENERAL STANDARDS. In order for the Development Review Board to approve the application, the PUD shall:
  - a. Be consistent with the Town Plan;
  - b. Not exceed an overall density of residential, commercial, industrial, or other units permitted in the Development Review Board's judgment if the land were subdivided into lots in accordance with the district regulations;
  - c. Constitute an effective and unified treatment of the development possibilities on the project site;
  - d. Make appropriate provisions for preservation of streams and streambanks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and manmade features;
  - e. Arrange Mixed uses in a compatible manner so as ensure visual and aural privacy for residents of the project;
  - f. Propose development over a reasonable period of time to ensure adequate municipal facilities and services; and
  - g. Whenever feasible, provide a water storage pond for adequate fire protection.
2. SPECIFIC STANDARDS. The following specific standards shall be met in order for the Development Review Board to approve the application:
  - a. District regulations on height shall be met, and spacing between main buildings shall be 80 feet unless otherwise waived by the Development Review Board;
  - b. To insure adequate visual and aural privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall be set back 40 feet, except where it borders the street or road, where it must be set back 70 feet from the center of

- the traveled portion of all roads except 80 feet from the center of the traveled portion of a 4 rod road, and screening may be required;
- c. The maximum building coverage per acre shall be 50%;
  - d. Adequate water supply and sewage disposal facilities shall be provided in accordance with State regulations;
  - e. The minimum requirement for open space shall be 50% of the total acreage.

#### 1.7 OPEN SPACES

The land area not allocated to building lots and streets shall be permanently reserved as open space. This area shall be reserved in such a condition, size and shape as to be readily usable for recreation or conservation. Such land shall be held in corporate ownership by the owners of the units within the development. Membership in said corporation shall be mandatory for all residents of the development. In case of corporate ownership, the developer shall include in the deed to the owners of the dwelling units the membership stipulation and the beneficial right in the use of open land.

#### 1.8 SPECIAL REVIEW AND DESIGN REQUIREMENTS FOR PUD IN THE STATE FARM DISTRICT

In addition to all other requirements of this Section, the following requirements shall apply to Planned Unit Developments in the State Farm District:

1. Development shall, to the extent practicable, respect the visual resources identified on the "VISUAL RESOURCES ANALYSIS" map of the DUXBURY FARM, dated May, 1994.
2. Development shall be laid out and designed to preserve, to the extent practicable, the prime agricultural soils identified on the "SOILS ANALYSIS " map of the DUXBURY FARM, dated May, 1994.
3. Development shall be laid out and designed to protect, to the extent practicable, the fields identified on the "VEGETATION ANALYSIS" map of the DUXBURY FARM, dated May, 1994.
4. The PUD shall be designed to allow significant portions of the land to be kept in tracts suitable for agriculture or forestry uses.
5. Development shall be laid out and designed to protect, to the extent practicable, the resources identified on the "NATURAL RESOURCE MAP" in the Town Plan.
6. Development shall be laid out and designed to protect Crossett Brook. A buffer equal to either fifty (50) feet or that required by State regulations, whichever is larger, shall be preserved along both sides of the brook. Within this buffer, no construction shall take place and no vegetation shall be removed without explicit approval by the Development Review Board.
7. The provisions of Article IV, Section 1.6 of these regulations notwithstanding, land not allocated to building lots or roads shall be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.
8. Development shall be consistent with the Town Plan.
9. It is the intent of these regulations that land not used for building sites be kept open and usable for agriculture or forestry. To the extent practicable, such land shall not be encumbered by fences, unless the fences are part of an ongoing agricultural operation.
10. As part of the PUD approval, the Development Review Board may authorize a density bonus of up to 25 percent of the number of lots otherwise allowed in exchange for creating small individual building lots, if so doing will further the purposes of this section.

11. The PUD shall encompass the entire Barns/Buildings--37 acre segment of the State Farm District.
12. The PUD design shall explicitly coordinate with the layout of the middle school facility on the adjacent segment.
13. A main access road may connect to the end of the public road serving the middle school, run along the recreation fields, and extend to Route 100. This road may be designed to include parallel on-street parking. The new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.
14. Off-street parking may not be located in front yards but must be behind the front facade line of the building(s).
15. Parking requirements, as specified in Section Article V, Section 2 of these Regulations, may be reduced by the number of on-street spaces immediately fronting the lot on which the building is located, provided that those spaces have not been allocated to any other building.
16. Off-street parking lots may be shared by adjacent buildings, provided that the required number of parking spaces is provided. In such cases parking may be located in required side yards.
17. No building may contain more than 20,000 square feet of enclosed building space except for the adaptive reuse or reconstruction of structures built prior to 1970.
18. Provisions of Article IV, Section 2.6 A(2) notwithstanding, The entire PUD shall contain no more than 130,000 square feet of enclosed building space. Up to 110,000 square feet may be located southwest of the power lines and up to 30,000 square feet may be located northeast of the power lines.
19. The Development Review Board may grant a bonus of up to 10,000 square feet for proposals that include reconstruction of the main State Farm barn building. If such a bonus is granted, total development in the PUD may be increased to 140,000 square feet, total development southwest of the power lines shall not exceed 110,000 square feet, and total development northeast of the power lines shall not exceed 40,000 square feet.
20. Development located northeast of the power lines shall be considerably less dense than that around the recreation fields, shall make use of existing structures to the extent practicable, and may be accessed from Route 100. Development in this area may include small scale manufacturing, educational facilities, museums, and agricultural uses.
21. Provisions of sub-paragraphs Article IV, Section 2.6 B(1) and (2) notwithstanding, the Development Review Board may approve front yard setbacks and spacing between buildings that is appropriate to the objective of creating a village center around the recreation fields.
22. The provisions of paragraph Article IV, Section 2.7 of these regulations notwithstanding, land not allocated to building lots or roads shall be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.

#### 1.9 SITE PLAN STANDARDS FOR PUDS IN THE STATE FARM DISTRICT

As authorized in Section 4416 of 24 V.S.A., Chapter 117, the following site plan standards are established for development in PUDs in the State Farm District, in addition to any standards contained elsewhere in this Section. The intent of these standards is to encourage the creation of a compact village center pattern of development, using the middle school athletic fields as a town green. This is seen as an alternative to strip development along Route 100.

1. All development in the Barns/Buildings 37 acre segment of the State Farm District shall be part of an approved PUD and shall be consistent with the standards set forth in this subsection.
2. The PUD shall be planned to complement the layout of the middle school on the adjacent property.
3. Site Plan Approval shall be required for the overall PUD. If the PUD plan calls for the creation of individual lots to be sold and/or developed separately, Site Plan Approval shall also be required for development on each lot.
4. LAYOUT:
  - a. The DRB may require the PUD layout to include a road connecting to the end of the access road serving the middle school, running along the edge of the recreation fields and continuing to Route 100. Any new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.
  - b. Offstreet parking serving buildings opposite the recreation fields shall be located in the side or rear yards, and shall not be in front of the front façade line of buildings.
  - c. Buildings opposite the recreation fields shall be set back no more than 20 feet from the edge of the right-of-way, and arranged to create a unified street façade and to define a public space around the recreation fields.
  - d. Total development in the PUD shall not exceed 130,000 square feet of enclosed building space. Up to 110,000 square feet shall be located in the area southwest of the power lines, and up to 30,000 square feet may be located in the area northeast of the power lines.
  - e. The DRB may grant a bonus of up to 10,000 square feet for proposals that include reconstruction of the main State Farm barn building. If such a bonus is granted, the total development in the PUD may be increased to 140,000 square feet, total development southwest of the power lines shall not exceed 110,000 square feet, and total development northeast of the power lines shall not exceed 40,000 square feet.
  - f. Development northeast of the power lines shall, to the extent practicable, make use of existing structures.
5. DESIGN (area southwest of the power lines):
  - a. Buildings shall be gabled roofed and not more than 2.5 stories in height/
  - b. Buildings shall have brick facades or horizontal siding.
  - c. At least 30 percent of the front facades shall be windows and doors.
  - d. Front porches and places for outdoor seating are encouraged.
  - e. Front facades shall be designed to create the visual image of small storefronts (eg. Bays of approximately 25 feet).
  - f. For proposed development that is of an integrated, unified design, the DRB may approve lots as small as one-fourth acre, provided that doing so furthers the purpose of this section and Article II, Section 6.10 (B).

- g. The DRB may approve a zero side yard setback on one side of a lot, provided that doing so furthers the purposes of this section and Article II, Section 6.10 (B).
  - h. Landscaping shall be provided to create a pleasant streetscape and reinforce the village green concept of the recreation fields.
  - i. Utilities shall be placed underground.
6. DESIGN (area northeast of the power lines):
- a. Buildings shall be no more than 2.5 stories in height.
  - b. At least 50 percent of front facades and 20 percent of side facades shall have some type of window and door treatment. The remainder of the front façade shall have brick, stone or horizontal siding.
  - c. Buildings shall not front directly onto Route 100.
  - d. There shall be direct access to Route 100 for a single new road. The access road and curb cuts shall be consistent with the applicable state standards.
  - e. Utilities shall be placed underground.

7. SIGNS:

The PUD plan shall include a sign plan for all signs. In approving the sign plan, the DRB shall require that the following standards be met.

- a. All signs shall be consistent with an overall sign plan and shall be of a consistent (but not necessarily identical) design.
- b. Freestanding signs shall not be allowed in the area southwest of the power lines (the planned village center area).
- c. In the area southwest of the power lines, signs may be located closer to roads than specified in Article V, Section 7 of these Regulations, but no less than ten (10) feet from the edge of the right-of-way.
- d. In the area southwest of the power lines, a sign designed to project at 90 degrees from building facades may be approved, provided:

The sign contains no more than eight (8) square feet of area;  
 The lowest point of the sign shall not be less than eight (8) feet above Grade or walkway, whichever is highest; and  
 The sign projects no more than four and a half (4.5) feet from the building façade on which it is mounted.

- e. In the area southwest of the power lines, signs shall conform to all other requirements of Article V, Section 7 of these Regulations.
- f. In the area northeast of the power lines, signs shall conform to the requirements of Section 6.2 of these regulations unless modifications of those requirements are specifically approved by the DRB.

## ARTICLE V - GENERAL PROVISIONS

### SECTION 1 - HOME OCCUPATIONS

### 1.1 HOME OCCUPATIONS ALLOWED

The Regulations shall allow home occupation use provided that:

1. the use or occupation is customary in residential areas,
2. does not change the character of the neighborhood or district, and
3. is consistent with the zoning districts as described in the town plan.

### 1.2 EXAMPLES OF HOME OCCUPATIONS

Examples of appropriate home occupations, include, but are not limited to:

1. A family day care home - a state registered or licensed day care facility serving six or for fewer children (see the definition of “family day care home in Article VI, Section 2);
2. A state licensed or registered residential care home or group home serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home will be considered a home occupation if located within 1,000 feet of another such home;
3. Teaching, tutoring, counseling or consulting services;
4. Home-based health service;
5. Legal, accounting, computer, architectural, or design services;
6. Sewing, upholstery, arts, pottery or other crafts;
7. Small appliance repair, or
8. Catering. \*

### 1.3 LIMITATIONS AND RULES REGARDING HOME OCCUPATIONS

All home occupations, with the exception of state licensed or registered residential care home or group homes as described in 1.2, number 2 shall:

1. Be carried out entirely within the principal and/or accessory structure;
2. Occupy no more than 25% of the home (that is, of the combined areas of the home and the accessory structure(s) used in the home occupation);
3. Be limited to activities that are family-run and employ no more than two employees who not family members;
4. Not produce excessive noise, smoke, odor, or other such nuisance;
5. Not generate hazardous waste as defined by applicable state and federal law;
6. Not include retail stores;
7. Not entail changes to the exterior or the land or structures that are inconsistent with the residential character of a neighborhood;
8. Not produce a greater volume of traffic than would normally be expected in the neighborhood; and
9. Provide off street parking, if necessary.

### 1.4 BENIGN HOME OCCUPATION

A Benign Home Occupancy shall not require a permit. A Benign Home Occupation is defined as a home occupancy which:

1. Is limited to activities that are family-run;
2. Involves limited or no client or customer interaction in home;
3. Does not produce noise, smoke, odor, or other such nuisance;
4. Does not require any additional off street parking;
5. Does not produce additional traffic; and
6. Does not entail the use of a sign or signs.
7. In the event that any of the above conditions are not met, the homeowner must obtain a permit.

## **SECTION 2 – DAY CARE FACILITY**

2.1 No permit shall be issued for the creation or operation of a child care facility without obtaining all licenses and/or registrations required under state law. Operation of a facility in violation of licenses or registration shall constitute a violation of these bylaws. Child care facilities that are exempt from state licensure and registration through 33 V.S.A. § 3502(b) are not regulated under these provisions but may be regulated in other sections of this bylaw. Such exemptions include:

1. Persons providing care for children of not more than two families;
2. Hospitals or establishments holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes;
3. Day care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities;
4. Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulation by the Department of Education (33 V.S.A. § 3502(b)(1-4));
5. A state registered or licensed family child care home operated within a single family dwelling shall be considered by right to constitute a permitted single family residential use of the property.

2.2 Uses that meet the above requirements shall not require a permit issued by the zoning administrator but the applicant shall notify the zoning administrator in writing of intent to establish use.

2.3 A state registered or licensed family child care home operating in a dwelling other than a single family dwelling (e.g. duplex, multifamily housing) shall be treated as a permitted use and therefore must receive a zoning permit and shall also be required to obtain site plan approval.

2.4 Unless waived in writing by residents of the complex, all family child care homes not operating in a single family dwelling shall be limited to hours of operation between 7 a.m. and 7 p.m.

2.5 Licensed day care facilities shall be reviewed as a service establishment and are subject to conditional use and site plan review as appropriate.

## **SECTION 3 - ACCESS AND PARKING REQUIREMENTS**

1. Unless otherwise directed by the Development Review Board, no new building shall be constructed in the Village District unless the owner of the lot grants:
  - a. A travel easement at least fifty (50) feet wide, across such lot or across adjoining property, so as to connect with a public highway for the purpose of furnishing access to such public highway for the benefit of adjoining land having no adequate access thereto; and
  - b. Utilities easements or other easements across such lot or across adjoining property for the purpose of furnishing access to public utilities for the benefit of adjoining land having no adequate access thereto.
2. Any building or other structure erected, altered, or used and any lot used or occupied for any of the following purposes shall be provided with the minimum off -street parking spaces as set forth below together with adequate passageways, driveways or other means of circulation and access to and from a street or way:
  - a. One all-weather parking space for each family unit in a residential dwelling, each room for rent in a rooming or boarding house, or for each rental unit in a hotel,

motel or tourist home, or for each two (2) occupants in a residential club, or for every ten (10) occupants in an institutional home; or for every four beds in a hospital, convalescent home, or sanitarium; or for every two hundred (200) square feet of floor space in a retail store or shop, department store or supermarket, office building or wholesale establishment; or for each fifty (50) square feet devoted to patron use in a restaurant, tea room, or outpatient care facility or for each one thousand (1,000) square feet of floor space or fraction thereof in any commercial building not herein above enumerated; or for each commercial purpose.

- b. The parking spaces herein above required may be located elsewhere than on the same lot, or the requirements for parking may be reduced, upon application to the Development Review Board provided that:
  - i. The owners of two (2) or more establishments shall submit with their application for special exception a site plan showing joint use and location of a common off-street parking area;
  - ii. The Development Review Board is persuaded that greater efficiency is affected by joint use of a common parking area; and
  - iii. Some portion of the off-street parking areas lies within two hundred (200) feet of an entrance regularly used by patrons into the building served thereby.

#### **SECTION 4 - SEWAGE DISPOSAL STANDARDS**

1. No sewage disposal system or any portion thereof shall be placed within fifty feet of the shoreline (normal mean watermark) of any stream, brook, river, pond, bog, swamp or marsh or within 100 feet of any drinking water supply.
2. Proposed drainage fields for subsurface sewage disposal systems must have a minimum of five feet of soil, earth or granular material cover over ledge or bedrock.

#### **SECTION 5 - HEIGHT OF STRUCTURES**

1. No structure shall exceed 35 feet in height, except as provided in this Section. The principal structure height limit shall apply to all accessory buildings, structures and appurtenances other than the customary rooftop television or radio antenna. Building Height is the vertical distance measured from the average elevations of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to average height between eaves and ridge for other types of roofs.
2. Height in excess of 35 feet may be approved by the Development Review Board on its written finding, after hearing, that:
  - a. The additional height applied for is customary to the proposed use such as, but not limited to, church steeples, flagpoles and agricultural silos; or
  - b. If the additional height applied for is necessary to the operation or function of the proposed use, such as, but not limited to, industrial silos, elevator shafts, water towers, chimneys, windmill; or
  - c. The additional height applied for is required for public necessity or public safety such as; but not limited to, air navigational aids beacons and high voltage transmission lines.
3. In granting additional height approval beyond 35 feet for any structure, accessory building or appurtenance, the Development Review Board shall be guided by, and base its findings on, the following criteria:
  - a. The Town Plan

- b. Public safety,
  - c. Impact on the character of the neighborhood, and
  - d. Visual impact.
4. Any height in excess of 35 feet shall be intended for habitation or full time work station use.

**SECTION 6 - FRONTAGE OR ACCESS REQUIRED TO PUBLIC ROADS OR WATERS**

No land development is permitted on lots that do not have either frontage on a public road or a permanent easement or right of way of record approved by the DRB as a conditional use in accordance with Article III, Section 6 of the bylaws. Minimum frontage is established in Article II for each district. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way. The required easement or right-of-way shall be at least 50 feet in width for any such landlocked parcels.

**SECTION 7 - EQUAL HOUSING STANDARDS**

1. Nothing in these zoning regulations shall be construed to prohibit or deter the establishment of low and moderate income housing, senior housing or mobile home parks in the Town of Duxbury. Nothing in these zoning regulations shall be construed to prohibit or deter the erection or installation of mobile homes or other forms of prefabricated housing. It is the goal of the Town of Duxbury to allow for the development of low and moderate income and senior housing in a manner consistent with the Town Plan and the zoning regulations.
2. No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of the Town Plan as required under 24 V.S.A. § 4382(a)(10) and 24 V.S.A. § 4412(1)(A).

**SECTION 8 -SIGNS**

No sign shall be erected without a zoning permit. All signs shall conform with the following standards:

1. No sign shall contain obscene material;
2. All signs shall be maintained in good condition and repair at all times;
3. No sign shall exceed eight (8) square feet for home occupations and residential neighborhoods. Signs of eight (8) square feet shall be set back at least thirty five (35) feet from the center of the road, and signs located in residential neighborhoods shall be illuminated by indirect lighting.
4. No sign shall exceed thirty two (32) square feet for commercial neighborhoods. Signs of thirty two (32) square feet shall be set back at least fifty five (55) feet from the center of the road.
5. There shall be a maximum of two (2) signs per lot.
6. No sign shall be placed on a roof.
7. No sign shall have moving parts or flashing or blinking lights.
8. No sign shall be allowed within one hundred fifty (150) feet of an intersection unless affixed to a building.

**SECTION 9 - PRE EXISTING SMALL LOTS**

### 8.1 GENERAL RULE

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulation, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

### 8.2 CONVEYANCE STANDARDS

1. In the event that the pre-existing small lot comes under common ownership with one or more contiguous lots, the lots shall be deemed merged with the contiguous lot. The pre-existing small lot may be subsequently conveyed only if:

- a. The lots are conveyed in their preexisting, nonconforming configuration;
- b. On the effective date of any zoning regulation, each lot had been developed with a water supply and wastewater disposal system;
- c. At the time of the transfer, each water supply and wastewater system is functioning;
- d. The deeds of conveyance create the appropriate easements on both lots for replacement of one or more wastewater systems in case of failure. Failure of a wastewater system is defined as one or more of the following conditions:
  - i. Surfacing or pooling of wastewater on the ground, exposure of wastewater to open air, discharge of wastewater to surface waters, or back up of wastewater into a building or structure unless the design of the system specifically requires such backup; and
  - ii. The contamination of a potable water supply which presents a threat to human health or a serious threat to the environment.

If subsequent to the conveyance, the wastewater system fails, the owner shall be required to obtain a wastewater permit as required under subdivision regulations from the Secretary of the Vermont Agency of Natural Resources or, a certification that the wastewater system has been modified or replaced and no longer constitutes a failed system.

**SECTION 10 - WIRELESS TELECOMMUNICATION FACILITIES AND JUNKYARDS**

- 1. Refer to the separate Town ordinances regarding these issues.
- 2. Junkyards shall require a certificate from the Development Review Board stating that the proposed location of the junkyard:
  - a. is not within a district which prohibits such uses and
  - b. is not otherwise contrary to the zoning ordinance and Town Plan.

**SECTION 11 - STORAGE UNIT CONSIDERATIONS**

The design and structure of storage units shall be consistent with the character of the neighborhood and the applicable zoning district. The Development Review Board may impose conditions in order to ensure that the units are consistent with the character of the neighborhood and the applicable zoning district. For example, the Development Review Board may require screening and size limitations, and may specify the color(s) of the units.

**SECTION 12 – STATUTORY LIMITATIONS**

- A. The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:
  - 1. State- or community-owned and operated institutions and facilities.
  - 2. Public and private schools and other educational institutions certified by the state Department of Education.
  - 3. Churches and other places of worship, convents, and parish houses.
  - 4. Public and private hospitals.
  - 5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.

6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
- B. A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
- C. Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.
- D. A bylaw under this chapter shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6. A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

## **ARTICLE VI -INTERPRETATION AND DEFINITIONS**

### **SECTION 1 - MEANING AND INTERPRETATION**

Except where specifically defined herein, all words used in the Regulations shall be interpreted in accordance with their customary meanings. If the meaning of a word or words is undefined or the definition is unclear, the meaning shall be clarified by the Development Review Board. Words used in the present tense shall include the future, and the singular includes the plural; the word “shall” is mandatory; “use” and “occupy” and “occupied” or “used” shall be considered as though followed by the phrase “or intended or intends, arranged or arranges, or designed to be used or occupied.” “Person” includes an individual, partnership, association, corporation, company, or organization.

### **SECTION 2 - DEFINITIONS**

**Accessory Dwelling Unit** - An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: the property has sufficient wastewater capacity, the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling and applicable setback, coverage, and parking requirements specified in the bylaws are met. (24 V.S.A. § 4412(1)(E)).

**Accessory Use or Accessory Building** - A use or a building customarily incidental and subordinate to the principal use of a building and located on the same lot.

**Affordable housing:** Housing that is owned by its inhabitants, whose gross annual

household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. § 4303(1)(A).

**Agricultural Use** - Land containing at least two acres, which is used for raising livestock or crops or forest products, including farm structures and the storage of agricultural products raised on the property.

Appropriate municipal panel – A Planning Commission, Development Review Board, or legislative body performing development review.

**Area of shallow flooding** - A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard:** the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

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

**Basement** - Any area of the building having its floor sub-grade below ground level on all sides.

**Bed and Breakfast** - A place of lodging that provides overnight accommodations for not more than six guests. For purposes of this Ordinance, a Bed and Breakfast facility shall be included in the definition of Boarding House.

**Boarding House** - A dwelling, or part thereof, in which lodging is provided by the owner or operator to the boarders and in which cooking and eating facilities are not provided for boarders in their units. For purposes of this Ordinance, a Bed and Breakfast facility shall be included in the definition of Boarding House.

**Building** - Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel. Within flood hazard zones, an above ground gas or liquid storage tank is also a building.

**Building Height** - Vertical distance measured from the average elevations of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to average height between eaves and ridge for other types of roofs.

**Bylaws – Municipal regulations applicable to land development adopted under Title 24, Chapter 117.**

**Change of Use** - The transfer of use of land or structures from one category of use, as listed in the zoning district regulations or defined in this section, to another category of use.

**Club** - Building or use catering exclusively to club members and their guests for recreational purposes and not operated primarily for profit.

**Commercial Use** - Any wholesale, retail or professional activity carried out for financial gain.

**Community Sewer** - Sewage disposal system approved by the legislative body for municipal operation.

**Conformance with the Plan – A proposed implementation tool, including a bylaw or bylaw amendment that is in accord with the municipal plan in effect at the time of adoption, when the bylaw or bylaw amendment includes all the following:**

- (A) Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan.**
- (B) Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan.**
- (C) Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.**

**Dwelling** - A building designed for and occupied exclusively for residential purposes, excluding hotels, rooming houses, tourist homes, institutional homes, residential clubs, automobile courts and the like.

**Dwelling Unit, Multi Family** - A building containing three or more dwelling units which may be condominiums or cooperatives, but shall not include hotels or motels.

**Element – A component of a plan.**

**Essential Municipal Services** - The construction, alternation or maintenance of facilities used for the provision of essential public services, including but not limited to town office facilities, town garage facilities, municipal waste water treatment facilities, municipal water treatment facilities, and public utility power generating and transmission facilities.

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

**Family Day Care Home** - A family day care home is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

(A) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and

(B) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902((3)).

**Farm structure** - A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

**Flood Insurance Rate Map (FIRM)** - An official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface evaluations.

**Flood Proofing** - Any combination of structural and non-structural additions, changes, or adjustments to structures designed to reduce or eliminate flood damage to real estate or improved real estate property, water and sanitary facilities, structures, and their contents.

**Flood Way** - 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 a designated height.

**Forest Use** - The growing and harvesting of trees or timber other than for their fruit.

**Home Occupation** - Any use conducted entirely within a dwelling or accessory structures and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

**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 any extension of use of land, provided that land development shall not include construction of fences on working farms.

**Light Industry** - Any industrial or manufacturing use having not more than 20 employees and occupying not more than 20,000 square feet of floor and storage area in the aggregate.

**Lot** - Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may be determined by the Development Review Board to be adequate as a condition of the issuance of a zoning permit.

**Lot area** - Total area within the property line excluding any part thereof lying within the boundaries of a public street, or proposed public street.

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

**Manufactured home** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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

**Mean Sea Level** - For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mixed Use Development** - The development of a tract of land or building or structure with two or more different uses, such as, but not limited to, residential, office, manufacturing, retail, public or entertainment, in a compact form.

**Mobile Home:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

**Mobile Home Park:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201 (2).

**Moderate Income Housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Modular (or Prefabricated) Housing:** A factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

**Motel** - Building containing rooms which are rented as a series of sleeping units for transient use, each sleeping unit consisting of at least a bedroom and bathroom.

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

**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. 24 V.S.A. § 4303(14).

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

**Open Land** - Tillable and/or unforested land.

**Open Space** - That undeveloped portion of any development parcel which is not occupied by buildings, streets, right-of-ways, driveways, parking spaces, house lots, individual yard areas, or lands so intensively used as to render them, in the judgment of the Development Review Board, inconsistent with this definition.

**Parking Space** - Off street space used for the temporary location of one licensed motor vehicle, which is at least ten feet wide and twenty two feet long, not including access driveways, and having direct access to a street or approved right-of-way.

**Person** – An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**Plan** – Municipal plan adopted under section 4348 of Title 24.

**Planning Commission** – A planning commission for a municipality created under subchapter 2 of Title 24, Chapter 117.

**Public Notice** – The form of notice prescribed by sections 4444, 4449, or 4464 of Title 24 as the context requires.

**Planned Unit Development** - An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, commercial and/or industrial uses, if any, the plan for which does not correspond in lot size, bulk, or type of dwelling, commercial and/or industrial uses, density, lot coverage and required open space to the regulations established in any one or more districts created in this zoning regulation.

**Professional Office** - An office occupied by a member of a recognized profession for the purposes of conducting professional activities.

**Public Utility** - A business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, transportation, telephone, or waste water treatment.

**Recreation Facility** - Public and private, indoor and outdoor, land or buildings used for the purpose of recreation. Including but not limited to: golf driving range and courses, skating rinks, gymnasiums, swimming pools, hobby workshops, trapping, skeet and archery ranges, riding stables, parks, tennis courts, skiing facilities, publicly owned and operated playgrounds, play fields, open spaces and other forms of recreational activities.

**Recreation Facility Commercial** - A recreational facility operated as a business and open to the public for a fee.

**Recreation Non Commercial** - A low intensity, non profit recreational facility/property such as, hiking, nature study, cross country skiing, hunting and fishing.

**Regional Plan** - A plan adopted under section 4348 of Title 24.

**Regional Planning Commission** – A planning commission for the region created under subchapter 3 of Title 24, Chapter 117.

**Retail Store** - Customary use of enclosed restaurant, café, shop and/or store for the sale of goods at retail, personal service shop and department store, excluding any drive-up service, free standing retail stand, gasoline service and motor vehicle repair service, new and used car sales

and service and trailer and mobile home sales and service. Retail stores are characterized by regular hours, signs and advertising, and the need for customer parking.

**Seasonal Dwelling** - A dwelling unit which is not a primary residence of the owner or occupant, and is occupied only on a part-time and seasonal basis, for no more than six consecutive months, including the summer months. Seasonal dwellings are often characterized by the absence of utilities, standard water supply and septic systems, and weatherization.

**Signs** - A structure, building wall, or other outdoor surface, or any device used for visual communication, for the purpose of bringing a subject to the attention of the public, or to display, identify, advertise, and/or publicize the name, product, or service of any person.

**Single and Separate Ownership** - The ownership of property by any person which is separate and distinct from the ownership of any adjoining property.

**Special Exception** - Permission, approval or authorization granted by the Development Review Board consistent with the terms of the zoning regulations and the Town Plan.

**Storage Units** - A commercial structure used to store materials in exchange for reimbursement.

**Street or Road Frontage** - Lot lines which abut a public or private street or road.

**Structure** - An assembly of materials for occupancy or use, including, but not limited to; a building, mobile home, trailer, sign, wall or fence.

**Subdivision** - division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels or other divisions of land for sale or development. A subdivision shall also include the redivision or relocation of the lot lines of any lot or lots within a subdivision previously approved.

**Substantial Improvement** - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 % percent of the market value of the structure either, (a) before the improvement or repair was started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Sites.

**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.**

**Temporary Structure** - Any structure which can be relocated easily, has no permanent foundation, is designed for limited use, is less than 100 square feet in area, and is erected for no longer than six months a year including the summer months.

**Trailer Park** - Any land used or designed to be used as a parking space for more than one (1) travel trailer.

**Travel Trailer** - A vehicle utilized for camping or other temporary use, and not occupied as a dwelling for a period of three (3) months in a calendar year.

**Variance** - Permission to depart from the literal requirements of a zoning ordinance.

**Wetlands** – Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.