



# **TOWN OF LYNDON**

## **ZONING BY-LAWS**

EFFECTIVE NOVEMBER 6, 1996

(AS APPROVED BY THE LYNDON VOTERS ON NOVEMBER 5, 1996)

INCORPORATES CHANGE 1, EFFECTIVE JULY 1, 1997.

INCORPORATES CHANGE 2, EFFECTIVE DECEMBER 1, 1997

INCORPORATES CHANGE 3, EFFECTIVE APRIL 16, 2003

AMENDED FEBRUARY 1, 2010, EFFECTIVE FEBRUARY 23, 2010

AMENDED AUGUST 27, 2012, EFFECTIVE SEPTEMBER 17, 2012

AMENDED MAY 20, 2013, EFFECTIVE JUNE 10, 2013

AMENDED SEPTEMBER 6, 2016, EFFECTIVE SEPTEMBER 27, 2016

**TOWN OF LYNDON  
ZONING BYLAWS  
TABLE OF CONTENTS**

<u>Title</u>	<u>Page</u>
Article I, Adoption; Purpose	1
Article II, Zoning Districts	1
Article III, District Objectives and District Regulations	1
Rural Residential, Section 3.1	1
Residential Neighborhood, Section 3.2	2
Village Commercial, Section 3.3	3
Park, Section 3.4	4
Industrial, Section 3.5	5
Commercial, Section 3.6	6
Lyndon Corner Industrial, Section 3.7	7
Main Street, Section 3.8	7
Institutional Control Area, Section 3.9	8
Industrial/Commercial, Section 3.10	9
Article IV, General Provisions	9
Permitted and Conditional Uses, Section 4.2	9
Classification of Lots, Section 4.3	11
Application of District Regulations, Section 4.4	11
Recreational Camps, Section 4.5	12
Variances, Section 4.6	12
Sewer Disposal Systems, Section 4.7	12
Lot Delineations, Section 4.8	12
Accessory Buildings, Section 4.9	12
Travel Trailer, Section 4.10	12
Article V, Non-Conforming Uses	12
Article VI, Off-Street Parking Regulations	13
Article VII, Subdivision Regulations	15
Regulations Governing Minor Subdivisions	17
Regulations Governing Major Subdivisions	18
Article VIII, Miscellaneous	20
Lots in Two Zoning Districts, Section 8.2	20
Projection Into Setback Area, Section 8.7	20
Abandonment of Structures or Work in Progress, Section 8.8	20
Height Regulations, Section 8.9	20
Storage of Unregistered Motor Vehicles, Section 8.10	20
Extraction of Soil, Sand or Gravel, Section 8.12	21
Walls, Fences and Similar Structures, Section 8.13	22

ii  
**TABLE OF CONTENTS (Continued)**

Article IX, Site Plans	22
Article X, Mobile Homes	24
Article XI, Flood Hazard Regulations	25
Article XII, Planned Unit Developments	38
Article XIII, Administration and Enforcement	41
Article XIV, Amendments, Interpretation, Effective Dates	44
Article XV, Personal Wireless Service	44
Article XVI, Signage	49
Article XVII, Definitions	55
Land Use Matrix	Atch 1
Minimum Requirements for Development	Atch 2
Zoning District Maps	Atch 3

**TOWN OF LYNDON  
ZONING BYLAWS**

Nov. 6, 1996

ARTICLE I.

Adoption: Purpose

1.1 **Adoption.** Pursuant to Chapter 117 of Title 24, Vermont Statutes Annotated, the Town of Lyndon, Vermont hereby establishes the following ordinance as its zoning bylaws for the Town of Lyndon, and adopts the official zoning map for the Town of Lyndon.

1.2 **Purpose.** It is the purpose of these bylaws to provide for the orderly development of the Town of Lyndon in accordance with and to carry out the Lyndon Town Plan; to regulate the subdivision and uses of land and buildings in the town; to preserve and conserve the natural environment within the Town of Lyndon; to mitigate the burden of property taxes on agricultural, forest and other open lands; to protect residential, agricultural and other areas from undue concentrations of population and buildings and overcrowding of land, from traffic congestion, and from the loss of peace, quiet and privacy that presently characterizes the town; to maintain the historic settlement pattern within the town, and to promote the growth of the town consistent with that traditional settlement pattern; to foster a strong and diverse economy providing satisfying and rewarding job opportunities and to expand economic opportunities within the town while at the same time maintaining high environmental standards; to maintain and enhance the recreational opportunities within the town; to encourage and strengthen agricultural and forest industries and related businesses; and to promote the availability of safe, sanitary, decent and affordable housing for all residents of the town.

ARTICLE II

Zoning Districts

2.1 **Establishment of Zoning Districts.** The Town of Lyndon is divided into the following ten Districts:

- 2.1.1 Rural Residential
- 2.1.2 Residential Neighborhood
- 2.1.3 Village Commercial
- 2.1.4 Park
- 2.1.5 Industrial
- 2.1.6 Commercial
- 2.1.7 Lyndon Corner Industrial
- 2.1.8 Main Street
- 2.1.9 Institutional Control
- 2.1.10 Industrial/Commercial District

ARTICLE III

District Objectives and District Regulations

3.1 **Rural Residential.** The Rural Residential District contains land that has and should retain a low density of use, and which should be primarily restricted to agricultural, forestry, outdoor recreational and residential use. The Rural Residential District is characterized by the lack of a network of improved roads, municipal services such as water supply and sewage treatment and disposal, and the remoteness of the district from commercial centers.

The following are the permitted and conditional uses that are allowed in the Rural Residential District:

3.1.1 Permitted Uses.

- 3.1.1.1 Agriculture\*
- 3.1.1.2 Forestry\*
- 3.1.1.3 Single family dwellings
- 3.1.1.4 Two family dwellings
- 3.1.1.5 Home occupation
- 3.1.1.6 Bed and breakfast
- 3.1.1.7 Guest Home
- 3.1.1.8 Recreational camps

3.1.2 Conditional Uses.

- 3.1.2.1 Multi-family dwellings
- 3.1.2.2 Public buildings\*
- 3.1.2.3 Outdoor recreation and structures necessary and incidental thereto
- 3.1.2.4 Light industry
- 3.1.2.5 Planned residential development
- 3.1.2.6 Extraction of earth resources
- 3.1.2.7 Horse boarding and riding facility and structures incidental thereto
- 3.1.2.8 Sanitary landfill
- 3.1.2.9 Day care center
- 3.1.2.10 Mobile home park
- 3.1.2.11 Campground
- 3.1.2.12 Church\*
- 3.1.2.13 School\*
- 3.1.2.14 Medical clinic
- 3.1.2.15 Private club
- 3.1.2.16 Cemetery
- 3.1.2.17 Fairgrounds
- 3.1.2.18 Personal Wireless Service Facilities
- 3.1.2.19 Public facility\*
- 3.1.2.20 Other uses upon the finding by the DRB that such uses will not be detrimental to other uses in the Rural Residential District or to adjoining land uses.

\* In accordance with 24 VSA Section 4413

3.2 **Residential Neighborhood.** The Residential Neighborhood Districts consist of land presently developed primarily for single family dwellings, and the surrounding areas. Future residential development in the Town should be encouraged and can be expected to occur in the residential neighborhoods that presently exist. The maximum residential development in any one neighborhood should not exceed the capacities of sewage disposal and water systems as they exist from time to time, police protection services, fire department services, utilities, and present or planned municipal facilities. The Residential Neighborhood Districts are shown as such on the official zoning map with the designation "RNH".

The following are the permitted and conditional uses that are allowed in the Residential Neighborhood Districts:

3.2.1 Permitted Uses.

- 3.2.1.1 Single family dwellings
- 3.2.1.2 Two family dwellings

3.2.1.3 Home occupation

3.2.2 Conditional Uses.

- 3.2.2.1 Multi-family dwellings
- 3.2.2.2 Public buildings that do not adversely affect, to any degree, the residential character of the neighborhood.\*
- 3.2.2.3 Planned Residential Development
- 3.2.2.4 Day care center
- 3.2.2.5 Non-profit recreation
- 3.2.2.6 Mobile home park
- 3.2.2.7 Church\*
- 3.2.2.8 Neighborhood facility
- 3.2.2.9 Personal Wireless Service Facilities
- 3.2.2.10 Agriculture\*
- 3.2.2.11 Forestry\*
- 3.2.2.12 Public facility\*
- 3.2.2.13 School\*

\* In accordance with 24 VSA Section 4413

3.3 **Village Commercial.** The Village Commercial District serves as the commercial center of the Town of Lyndon. It is presently characterized by retail stores, offices and apartments. Future growth in retail establishments and professional offices should be encouraged in the Village Commercial District. Development of housing for people with special needs, such as the infirm, elderly and others should take place in or near the Village Commercial District so that the commercial facilities will be available to such people.

The following are the permitted and conditional uses that are allowed in the Village Commercial District:

3.3.1 Permitted Uses.

- 3.3.1.1 Retail store
- 3.3.1.2 Retail service
- 3.3.1.3 Office
- 3.3.1.4 Restaurant
- 3.3.1.5 Bar
- 3.3.1.6 Transient lodging
- 3.3.1.7 Community center
- 3.3.1.8 Indoor recreation
- 3.3.1.9 Funeral home
- 3.3.1.10 Parking
- 3.3.1.11 Indoor theater
- 3.3.1.12 Bank
- 3.3.1.13 Public building\*
- 3.3.1.14 Personal Service Establishments
- 3.3.1.15 Home occupation

3.3.2 Conditional Uses.

- 3.3.2.1 Single, two and multi-family dwellings

- 3.3.2.2 Drive-in restaurant
- 3.3.2.3 Warehouse
- 3.3.2.4 Car wash
- 3.3.2.5 Fuel distribution
- 3.3.2.6 Day care center
- 3.3.2.7 Community care home
- 3.3.2.8 Church\*
- 3.3.2.9 Motor vehicle repairs
- 3.3.2.10 Automobile service station
- 3.3.2.11 School\*
- 3.3.2.12 Medical clinic
- 3.3.2.13 Private club
- 3.3.2.14 Personal Wireless Service Facilities
- 3.3.2.15 Agriculture\*
- 3.3.2.16 Forestry\*
- 3.3.2.17 Public Facility\*
- 3.3.2.18 Other general commercial uses involving wholesale or retail trade, transportation, light industry, printing, and other similar uses upon the finding by the DRB that such uses will not be detrimental to other uses in the Village Commercial District or to adjoining land uses.

\* In accordance with 24 VSA Section 4413

3.4 **Park.** The Park District is the area surrounding the Village Green and extending southerly on Park Avenue from Maple Street to Center Street. The Park District is of vital historical and architectural importance to the Town of Lyndon, and must be counted as one of the major assets of the Town and the Northeast Kingdom. The physical appearance of the Park District should be preserved. The present buildings in the Park District were originally constructed as single family dwellings, but these buildings have, with the passage of time, become inefficient and expensive to occupy and maintain. Other uses that will enable the owners of property in the Park District to earn income from these buildings, but are compatible with the present appearance of and uses in the Park District, should be allowed so that the Town will not cast an unfair economic burden on the owners of property in the Park District if those owners are going to be obligated to help preserve the Park District's present appearance. When authorizing a use other than a single family dwelling in the Park District, the DRB should give primary consideration to the preservation of the architectural features and the population density of the Park District in its present form. All structures in the Park District shall have not less than two stories of living or other usable space at and above street level.

The following are the permitted and conditional uses that are allowed in the Park District:

3.4.1 Permitted Uses

- 3.4.1.1 Single family dwelling
- 3.4.1.2 Multi-family dwelling containing not more than the number of dwelling units in such building on the effective date of these bylaws
- 3.4.1.3 Home occupation

3.4.2 Conditional Uses

- 3.4.2.1 Office
- 3.4.2.2 Guest house for transients not serving meals
- 3.4.2.3 Two family dwelling
- 3.4.2.4 Bed and breakfast
- 3.4.2.5 Personal Wireless Service Facilities
- 3.4.2.6 Agriculture\*
- 3.4.2.7 Forestry\*

- 3.4.2.8 Public Building\*
- 3.4.2.9 Public Facility\*
- 3.4.2.10 School\*
- 3.4.2.11 Church\*
- 3.4.2.12 Uses that are similar to and compatible with, and no more intrusive or intensive than, other permitted or conditional uses that are allowed in the Park District, and that are compatible with the architectural features of the Park District

\* In accordance with 24 VSA Section 4413

3.5 **Industrial.** The Industrial Districts are designed to provide locations for establishing new industry in the town, and permitting the growth of existing industry in the town in areas appropriate to such land use. Land in the Industrial Districts (a) must have good access to transportation facilities, (b) must not interfere with surrounding land uses, (c) must be near readily available utilities, and (d) have feasible access to municipal sewage disposal and water facilities.

The following are the permitted and conditional uses that are allowed in the Industrial District:

3.5.1 Permitted Uses

- 3.5.1.1 Office
- 3.5.1.2 Personal Service Establishments
- 3.5.1.3 Light industry

3.5.2 Conditional Uses

- 3.5.2.1 Warehouse or trucking terminals
- 3.5.2.2 Public facility\*
- 3.5.2.3 Municipal uses
- 3.5.2.4 Manufacturing, fabricating, assembling, processing, packing, treatment or warehousing of goods and products
- 3.5.2.5 Research or testing laboratories
- 3.5.2.6 Commercial uses
- 3.5.2.7 Junk yard
- 3.5.2.8 Lumber yard
- 3.5.2.9 Automobile service station
- 3.5.2.10 Slaughterhouse
- 3.5.2.11 Asphalt or cement or aggregate plant
- 3.5.2.12 Bulk storage of dangerous materials
- 3.5.2.13 Retail store
- 3.5.2.14 Bulk storage and distribution of petroleum and petroleum products
- 3.5.2.15 Recycling center
- 3.5.2.16 Incinerator
- 3.5.2.17 Motor vehicle repair facility
- 3.5.2.18 Telecommunications and Teleprocessing facilities
- 3.5.2.19 Extraction of Earth Resources
- 3.5.2.20 Personal Wireless Service Facilities
- 3.5.2.21 Agriculture\*
- 3.5.2.22 Forestry\*
- 3.5.2.23 Public Building\*
- 3.5.2.24 Church\*
- 3.5.2.25 School\*



- 3.5.2.26 Other general industrial uses, or commercial uses involving wholesale or retail trade, or transportation, and other similar uses, upon the finding by the DRB that such uses will not be detrimental to other uses in that specific Industrial District or to adjoining land uses.

\* In accordance with 24 VSA Section 4413

3.6 **Commercial.** The Commercial District contains land where commercial development should be encouraged in addition to the Village Commercial District, where commercial uses will not interfere with surrounding land uses. The Commercial District has access to good roads, sewage disposal and water supplies, utilities, parking and other facilities necessary to sustain commercial activity.

The following uses are the permitted and conditional uses that are allowed in the Commercial District:

3.6.1 Permitted Uses:

- 3.6.1.1 Single family dwelling
- 3.6.1.2 Two family dwelling
- 3.6.1.3 Restaurant
- 3.6.1.4 Bar
- 3.6.1.5 Retail store
- 3.6.1.6 Personal service establishments
- 3.6.1.7 Office
- 3.6.1.8 Retail service
- 3.6.1.9 Public building\*
- 3.6.1.10 Bank
- 3.6.1.11 Indoor theater
- 3.6.1.12 Parking
- 3.6.1.13 Municipal use
- 3.6.1.14 Convenience Store
- 3.6.1.15 Bed and breakfast
- 3.6.1.16 Guest Home
- 3.6.1.17 Wholesale distribution
- 3.6.1.18 Home Occupation

3.6.2 Conditional Uses:

- 3.6.2.1 Multi-family dwelling
- 3.6.2.2 Mobile home park
- 3.6.2.3 Warehouse
- 3.6.2.4 Truck terminal
- 3.6.2.5 Car wash
- 3.6.2.6 Indoor recreation
- 3.6.2.7 Automobile service station
- 3.6.2.8 Motel
- 3.6.2.9 Drive-in restaurant
- 3.6.2.10 Day care center
- 3.6.2.11 Motor vehicle repairs
- 3.6.2.12 Telecommunications and Teleprocessing facilities
- 3.6.2.13 Funeral home
- 3.6.2.14 Fuel distribution
- 3.6.2.15 Light industry
- 3.6.2.16 Lumber yard
- 3.6.2.17 Medical clinic

- 3.6.2.18 Private club
- 3.6.2.19 Extraction of earth resources
- 3.6.2.20 Personal Wireless Service Facilities
- 3.6.2.21 Public Building\*
- 3.6.2.22 Agriculture\*
- 3.6.2.23 Forestry\*
- 3.6.2.24 School\*
- 3.6.2.25 Church\*
- 3.6.2.26 Other general commercial uses involving wholesale or retail trade, transportation, printing, and other similar uses upon the finding by the DRB that such uses will not be detrimental to other uses in the Commercial District or to adjoining land uses.

\* In accordance with 24 VSA Section 4413

3.7 **Lyndon Corner Industrial.** The Lyndon Corner Industrial District is located at the west end of York Street in Lyndon Corner. It is occupied by a successful furniture manufacturing company providing substantial employment. It is bordered on the south and west by rural land, and on the north and east by a residential area. The purpose of the zone is to minimize the adverse effects of a manufacturing facility in a residential and rural area, to protect the capital investment in the property and the employment opportunities it provides to the community, and to control the growth of the industrial use of the property.

The following are the permitted and conditional uses that are allowed in the Lyndon Corner Industrial District:

- 3.7.1 Permitted Uses: There are no permitted uses in this District.
- 3.7.2 Conditional Uses:
  - 3.7.2.1 Manufacturing, upon the condition that, in addition to the customary standards provided in Section 4.2, each of the performance standards in Section 4.2.5 shall be specifically considered.
  - 3.7.2.2 Agriculture\*
  - 3.7.2.3 Forestry\*
  - 3.7.2.4 School\*
  - 3.7.2.5 Church\*
  - 3.7.2.6 Public Building\*
  - 3.7.2.7 Public Facility\*

\* In accordance with 24 VSA Section 4413

3.8 **Main Street.** U. S. Route # 5, known locally as North Main Street, is the only means of access to and from the heart of the Town of Lyndon from the north. All persons traveling through Lyndonville must travel on North Main Street, and their impression of the Town of Lyndon will be affected by the land uses on and appearance of Main Street. It was the first section of Lyndonville to be developed, and contains many buildings having historical, architectural and social importance. It is characterized by a mixture of industrial, commercial and residential uses. It should be used for purposes that are compatible in a mixed use area, with an emphasis on providing incentives to the owners of land and buildings in the District to improve North Main Street's appearance and to keep commercial activity concentrated in or near the Village Commercial District.

It is desirable that new buildings constructed in the North Main Street District, whether on vacant land or to replace existing structures, have design features and be constructed with materials that are similar to and compatible

with the design and construction materials of the majority of the existing structures in the district. All structures in the Main Street District shall have not less than two stories of living or other usable space at and above street level.

The following uses are the permitted and conditional uses that are allowed in the Main Street District:

3.8.1 Permitted uses.

- 3.8.1.1 Single family dwellings
- 3.8.1.2 Two family dwellings
- 3.8.1.3 Retail store, not to exceed one in any one building.
- 3.8.1.4 Offices, not to exceed one floor in any one building.
- 3.8.1.5 Bed and Breakfast
- 3.8.1.6 Guest Home
- 3.8.1.7 Home occupation

3.8.2 Conditional uses.

- 3.8.2.1 Multi-family dwellings
- 3.8.2.2 Community care home
- 3.8.2.3 Day care center
- 3.8.2.4 Personal service establishments
- 3.8.2.5 School\*
- 3.8.2.6 Bank or bank branch
- 3.8.2.7 Funeral home
- 3.8.2.8 Medical clinic
- 3.8.2.9 Private club
- 3.8.2.10 Restaurant
- 3.8.2.11 Personal Wireless Service Facilities
- 3.8.2.12 Agriculture\*
- 3.8.2.13 Forestry\*
- 3.8.2.14 Public Building\*
- 3.8.2.15 Public Facility\*
- 3.8.2.16 Church\*
- 3.8.2.17 Other uses upon the finding by the DRB that such uses are consistent with the description of the purposes of the Main Street District stated in section 3.8, and that will not be detrimental to other uses in the Main Street District or to adjoining land uses.

\* In accordance with 24 VSA Section 4413

3.9 **Institutional Control Area.** The Institutional Control Area is the area identified in the document titled "Class IV Groundwater Area as approved by the Secretary of the Agency of Natural Resources on November 6, 2003 and shown in Attachment B of the August 23, 2003 Finding of Fact and Reclassification Order, Proposed Groundwater Reclassification at the Parker Landfill, Lyndon, Vermont".. The Institutional Control Area is generally described as a 250 acre area located on the southeast side of the Lily Pond Road, which includes the 25 acre area known as the Parker Landfill. The 250 acre area includes a zone where 95% confidence-level statistics indicate that groundwater is contaminated above the Vermont Groundwater Enforcement Standards (VGES), and a 200-foot buffer around the upgradient and crossgradient areas of the contamination zone. The downgradient boundary of the reclassification area is the Passumpsic River. Land development in the Institutional Control Area shall be controlled by the District in which it is located, and also by the restrictions set forth in sections 3.9.1 through 3.9.4 below. This district is intended solely to prohibit (a) land development in any Solid Waste Disposal Area, and (b) the use of ground water taken from the Institutional Control Area, pursuant to the recommendations made in the Reclassification Order identified in this Section 3.9.

3.9.1 No land development may take place in any Solid Waste Disposal Area nor in any Industrial Waste Disposal Area shown in Attachment B of the August 23, 2003 Finding of Fact and Reclassification Order, Proposed Groundwater Reclassification at the Parker Landfill, Lyndon, Vermont, which was approved by the Secretary of the Agency of Natural Resources.

3.9.2 No permit shall be issued for any land development within the Institutional Control District unless the permit prohibits the taking of water for any industrial, commercial, household, agricultural or other use from any well, spring, stream, pond or other ground water source within the Institutional Control District.

3.9.3 No person shall take water from any spring, well, stream, pond or other groundwater source located within the Institutional Control District.

3.9.4 The Development Review Board (DRB) may, after notice and hearing, waive the application of the special restrictions imposed in the Institutional Control District if the applicant establishes and the DRB finds that the proposed use of water from a water source located within the Institutional Control District does not pose any threat to the health, safety or welfare of the public or any member of the public.

3.10 **Industrial/Commercial District.** The Industrial/Commerical District is one suitable for the location of industry and the development of commercial enterprises because this District satisfies the criteria set forth in Sections 3.5 and 3.6. Lot size and setback requirements for land development in this District shall be the same as those for either the Industrial or Commercial Districts dependent on the category of development proposed.

3.10.1 Permitted uses. Any use designated as a permitted use in an Industrial District section 3.5 or a Commercial District section 3.6.

3.10.2 Conditional uses. Any use designated as a conditional use in an Industrial District section 3.5 or a Commercial District section 3.6.

## ARTICLE IV

### GENERAL PROVISIONS

#### 4.1 District Boundaries

4.1.1 If any district boundary is a road, stream or transportation right of way, the boundary shall be the center line thereof. The abandonment of such roads or other lines shall not hereafter affect the location of district boundaries. In the event of any question regarding the location of a district boundary, the location of such boundary as shown on the official zoning map entitled "Town of Lyndon Zoning District Map, November 9, 2009 " shall control. When the Administrative Officer (AO) cannot determine the location of a district boundary, the Planning Commission shall determine the location of such district boundary with reference to the official zoning map and the purposes set forth in all relevant provisions of this by-law.

#### 4.2 Permitted and Conditional Uses

4.2.1 Any use identified as a "Permitted Use" in the table relating to a particular zoning district may be commenced, enlarged or altered in such district provided that all of the applicable provisions of these zoning bylaws are satisfied. Unless a variance or other special action by the Development Review Board must first be obtained, a zoning permit shall be obtained from the Administrative Officer pursuant to this by-law.

4.2.2 Any Development identified as a "Conditional Use" in a particular zoning district may be commenced, enlarged or altered in such district only after the applicant obtains approval for such Development from the DRB pursuant to Section 4414 (3) of the Act, after public notice and hearing, and all other necessary approvals. No Conditional Use permit shall be granted unless the applicant affirmatively establishes and the DRB finds that the proposed Conditional Use will not adversely affect:

- 4.2.2.1 The capacity of existing or planned community facilities.
- 4.2.2.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- 4.2.2.3 Traffic on roads and highways in the vicinity.
- 4.2.2.4 By-laws and Ordinances then in effect.
- 4.2.2.5 Utilization of renewable energy resources.
- 4.2.2.6 Performance standards pursuant to Section 4414 (5) of the Act and Section 4.4.5 of this bylaw.

4.2.3 After Conditional Use Approval has been granted, and after required variances or other special actions by the DRB are obtained, a zoning permit shall be issued by the Administrative Officer on request of the applicant at any time within one year of the granting of the Conditional Use Approval. If the zoning permit is not issued within one year, the Conditional Use Approval shall become null and void.

4.2.4 When determining whether a proposed conditional use will adversely affect the character of the area involved, the DRB shall give weight to the well founded opinions with respect to such proposed use of any interested person as defined in Section 4465 (b) of the Act.

4.2.5 When granting Conditional Use Approval, the DRB may, in addition to those requirements and standards specifically authorized by this by-law, impose other conditions it finds are necessary to protect the best interests and property values of adjacent properties, the affected neighborhood, or the town as a whole, including:

- 4.2.5.1 increasing the required lot size or yard dimensions in order to protect adjacent properties;
- 4.2.5.2 limiting the coverage or height of buildings because of obstructions to the view from, reduction of light and air to, and/or to minimize fire hazards to, adjacent property;
- 4.2.5.3 controlling the location and number of vehicular access points to the property;
- 4.2.5.4 increasing the street width;
- 4.2.5.5 increasing the number of off-street parking or loading spaces required;
- 4.2.5.6 regulating the number, location, design and size of signs;
- 4.2.5.7 requiring suitable landscaping to reduce noise and glare, to shield a property from view, and/or to maintain the property in a character in keeping with the surrounding area;
- 4.2.5.8 specifying time limits for construction, alteration, or enlargement of a structure housing a conditional use;
- 4.2.5.9 requiring that any future enlargement or alteration of a conditional use be reviewed by the DRB to permit the specifying of new conditions; and
- 4.2.5.10 such additional reasonable conditions and safeguards as are necessary to achieve the purposes of the Act and these zoning bylaws.

4.2.6 With respect to Conditional Uses within a district which were existing therein prior to the time they became conditional uses under this by-law or any predecessor hereto, any change in use, expansion or contraction of land area, or alteration of structures or uses shall hereafter be subject to all of the requirements hereof pertaining to conditional uses.

### 4.3 Classification of Lots: Source of Water and Sewage Service

4.3.1 Lots are classified as follows:

<u>Classification</u>	<u>Water &amp; Sewage Disposal</u>
Class 1	Off-lot water and sewage disposal
Class 2	Off-lot water or sewage disposal
Class 3	On-lot water and sewage disposal

4.3.2 Upon the filing of an application for a permit for any use, the Administrative Officer shall determine the classification of the lot and whether the lot satisfies the minimum size requirements applicable to such lot.

4.3.3 Upon the filing of an application for a permit for a two- or multi-family dwelling, the Administrative Officer shall determine the classification of the lot and whether the lot satisfies the minimum size requirements applicable to such lots, with specific reference to the maximum number of dwelling units that may be located on such lot by dividing the area of the lot by the minimum area per family allowable in the district. In all cases, the result of such division shall be rounded up to the nearest whole number.

### 4.4 Application of District Regulations.

4.4.1 No part of any yard or other open space required to surround any building shall be included as a part of a yard or other open space required for another building.

4.4.2 Lots

4.4.2.1 Lots which abut on more than one street shall have the required frontage along every street.

4.4.2.2 No structure shall project into any minimum front, side, or rear yard unless Conditional Use Approval is granted therefor.

4.4.3 Lot coverage and front, side and rear yard requirements that apply to entire districts fail by their nature to account for all of the different conditions that exist within each district. Such requirements should not be conclusive and binding land use requirements subject to the inflexible requirements of Section 4469 of the Act. Therefore, any proposed Development in a particular zoning district that fails to satisfy lot coverage or front, side or rear yard requirements in that district may be allowed as a Conditional Use in that district, if the applicant affirmatively establishes that (a) the conditions established in Sections 4.4.5.1 through 4.4.5.6 inclusive are satisfied, (b) the degree to which the proposed Development fails to meet such requirements is no greater than the degree to which properties in the immediate vicinity also fail (if at all) to meet such requirements, and (c) the proposed Development is a Permitted Use or a Conditional Use in that district. The maximum amount of lot coverage that may be considered under conditional use provisions is 125% of the maximum listed by district in the chart depicting "Town of Lyndon Minimum Requirements for Development". For example, if a maximum lot coverage in a particular district is 20%, the Development Review Board may approve lot coverage of over 20%, up to a maximum of 25%, if the proposal satisfies conditional use criteria.

4.4.4 In determining the front yard of a parcel, the front yard requirement shall be measured from the edge of the travelled portion of the right-of-way in those cases where no sidewalk is present, and from the edge of the sidewalk most distant from the travelled portion of the right-of-way in those cases where a sidewalk is present.

4.4.5 Performance Standards. Pursuant to Section 4414 (5) of the Act, the following performance standards, and all applicable state imposed standards, shall be satisfied for any Conditional Use in all Districts. The DRB shall, after notice and hearing, decide whether a proposed Development satisfies the performance standards set forth herein. No Development shall:

- 4.4.5.1 create noise in excess of 70 decibels at any property line;
- 4.4.5.2 emit any offensive odor except in connection with agriculture;
- 4.4.5.3 discharge dust, dirt, soot, ash or any other offensive material onto nearby property owned by others;
- 4.4.5.4 emit any gases or other substances which might endanger the health, comfort, safety or welfare of any person, or which might injure or cause damage to property;
- 4.4.5.5 cause vibrations beyond any property line that have the potential to cause damage to property; or
- 4.4.5.6 create a fire, explosion or safety hazard.

4.5 **Recreational Camps** . For the purposes of this section, "recreation camp" means a structure, such as a hunting camp, that is intended to be and is in fact occupied only for recreational purposes and that lacks one or more of the following: (i) inside running water, (ii) insulation, (iii) interior heat, or (iv) a wastewater disposal system. A conversion of a recreational camp to a residence shall require a new application for a permit and a Certificate of Occupancy before it can be occupied as a residence.

4.6 **Variances**. Applications for a variance from the provisions of this bylaw shall be governed by, and granted or denied in accordance with, the provisions of 24 V.S.A. §4469. Pursuant to § 4.4.3 of this bylaw, applications for permission to deviate from the maximum lot coverage or the minimum front, side or rear yard requirements set forth elsewhere herein are not applications for a variance, but are to be granted or denied as conditional uses.

4.7 **Sewage Disposal Systems**. This by-law is not intended to create requirements for sewage disposal systems that are different from state requirements that are in effect from time to time. All sewage disposal systems other than municipal sewage disposal facilities shall comply with the requirements of Chapter 3 - "Sewage Disposal" - of the Environmental Protection Rules of the Protection Division Vermont Agency of Environmental Protection, as amended from time to time.

4.8 **Lot Delineations For More Than One Residence On A Single Lot**. If a landowner proposes to place more than one dwelling on a single lot, lot lines shall be delineated for each dwelling, and each lot so created shall conform to these bylaws (see table Minimum Requirements for Development).

4.9. **Accessory Buildings**. In any District where residential uses are allowed, unattached buildings that are accessory to a residential building may be allowed. All requirements of this zoning bylaw shall apply to such residential and accessory buildings.

4.10. **Travel Trailer**. A travel trailer may not be occupied as a residence unless it is connected to a sewage disposal system and a permanent water supply.

4.11 No permit will be required for a mobile home placed on the construction site of a new residence for which a permit has been issued to be occupied by the person(s) who will occupy the new dwelling. This shall be for not more than a one year period, but may be extended by the DRB, after notice and hearing, for good cause shown.

## ARTICLE V

### NON-CONFORMING USES

5.1 "Non-Conforming use" means a use of land or use of a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of these bylaws.

5.2 "Non-Conforming structure" means a structure or a part thereof not in conformance with the zoning regulations covering building dimensions, height, area, yards, density or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations.

5.3 In any District other than a Residential Neighborhood, a non-conforming use may be moved, enlarged, altered, extended, reconstructed, restored, or changed to another non-conforming use as a conditional use if, after notice and hearing, the DRB finds (a) that the degree of non-conformance after such change will be no more non-conforming than existed prior to such change, and (b) that such change shall not adversely affect:

- 5.3.1 The capacity of existing or planned community facilities.
- 5.3.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- 5.3.3 Traffic on roads and highways in the vicinity.
- 5.3.4 By-laws and Ordinances then in effect.
- 5.3.5 Utilization of renewable energy resources.
- 5.3.6 Performance standards pursuant to Section 4414 (5) of the Act and Section 4.4.5 of this bylaw.

5.4 In a Residential Neighborhood District, if a non-conforming use has been discontinued for more than a 12 month time period, the non-conforming use may not be re-established. An existing non-conforming use or one that has not been discontinued for 12 months may be moved, enlarged, altered, extended, reconstructed, restored, or changed to another non-conforming use as a conditional use if, after notice and hearing, the DRB finds (a) that the degree of non-conformance after such change will be no more non-conforming than existed prior to such change, and (b) that such change shall not adversely affect:

- 5.4.1 The capacity of existing or planned community facilities.
- 5.4.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- 5.4.3 Traffic on roads and highways in the vicinity.
- 5.4.4 By-laws and Ordinances then in effect.
- 5.4.5 Utilization of renewable energy resources.
- 5.4.6 Performance standards pursuant to Section 4414 (5) of the Act and Section 4.4.5 of this bylaw.

5.5 In any district, a non-conforming structure may be maintained, repaired and replaced provided that such action does not increase the degree of non-compliance in any respect.

## ARTICLE VI

### OFF-STREET PARKING REGULATIONS

#### 6.1 **Village Commercial District.**

6.1.1 An applicant for a permit affecting property in the Village Commercial District is not required to provide off-street parking if the applicant establishes and the DRB finds either:

6.1.1.1 that the proposed use will not create an undue burden on the parking facilities then existing in the Village Commercial District, or

6.1.1.2 the applicant's proposed use does not require a greater number of parking spaces than the prior use of the property according to the chart set forth below, and

- 6.1.2 The proposed use is a Permitted Use in the Village Commercial District.



6.2 **All Other Districts.** In all other cases, in all districts, an applicant for a permit shall demonstrate in the application that the property for which the permit is sought has the capacity to provide parking as follows:

<u>Use</u>	<u>Parking Spaces Required</u>
Lodging House	1 for each lodging unit
Residential 1-2 family	2 per dwelling unit
Multiple family dwellings	2 per dwelling unit
Church, school	1 per 3 seats in principal assembly room
Private club or lodge	1 per 6 members
Theater	1 per 6 seats
Hospital, nursing & convalescent home	1 per 3 beds and 1 for each employee
Professional office, business service and medical clinic	1 per every 250 square feet of gross area
Retail business, personal service establishment	1 per every 350 square feet of gross area
Eating, drinking establishment	1 per every 3 seats
Industrial	1 per each 1.2 employees, based on the highest expected employee occupancy in the 10 year period following the date of the application
Funeral home	1 per every 75 square feet of floor space
Other uses	As required by the Planning Commission after site plan review.

6.3 **General.**

6.3.1 An applicant for a permit may request the Development Review Board to authorize the issuance of a permit waiving the physical development of all of the off-street parking spaces required in accordance with the foregoing chart. If the Development Review Board finds, after hearing, that the applicant has demonstrated that the applicant's requirement for physically developed parking spaces will be fewer in number than the number computed according to the foregoing chart, then the Development Review Board may authorize the issuance of a permit requiring such lesser number of parking spaces as the Development Review Board finds is appropriate. If the Development Review Board authorizes the issuance of a permit pursuant to this section, it shall be a condition of the permit that if the physically developed parking spaces prove in actual practice to be insufficient to accommodate the applicant's parking requirements, the Development Review Board shall require the physical development of additional parking spaces sufficient to meet the actual parking requirements but not to exceed the number required by the foregoing chart.

6.3.2 It is the purpose of this section to prevent the parking of motor vehicles on streets and roads and to require property owners to provide parking for motor vehicles sufficient to accommodate parking requirements created by the applicant's proposed use of property.

6.4 **Minimum Parking Lot and Parking Stall Requirements.**

<b>Minimum Parking Lot and Parking Stall Requirements</b>				
<b>All On-site Parking Stalls Shall be a Minimum of 9'W X 20'L</b> <b>90° parking stalls assumes two-way traffic in the aisles.</b> <b>30°, 45°, 60° parking stalls assumes one-way traffic in the aisles.</b>				
<b>Parking Angle:</b>	<b>30°</b>	<b>45°</b>	<b>60°</b>	<b>90°</b>
<b>Minimum Aisle Width:</b>	<b>11'</b>	<b>13'</b>	<b>20'</b>	<b>25'</b>

ARTICLE VII

SUBDIVISION REGULATIONS

7.1 **Adoption and Purpose.** The Town of Lyndon hereby adopts the following Subdivision Bylaw pursuant to 24 V.S.A. §4418 et seq. This Bylaw is intended to be A Subdivision Bylaw within the meaning of 10 V.S.A. §6001(3). This Subdivision Bylaw is adopted for the purpose of assuring the orderly and coordinated development of land within the town. It is also the purpose of this Subdivision Bylaw to prevent the creation, by subdivision, of lots that do not comply with all of the lot requirements in the zone in which the lot is located. It is also the purpose of this Subdivision Bylaw to provide a mechanism for the accurate description of lots of land when they are created as the result of a subdivision.

7.2 **Definition of Lot.** For the purpose of this Subdivision Bylaw, a lot is defined as a parcel of land upon which improvements can be constructed. Parcels of land that cannot be so improved because of this Subdivision Bylaw, the Zoning Bylaws, the physical characteristics of the lot, any deed restriction or any governmental regulation shall not be deemed to be a lot for the purposes of this Subdivision Bylaw.

### 7.3 An Overview of the Subdivision Review Process

Action	Who does it, and when
<b>All Subdivisions start with a Sketch Plan Review</b>	
1. Sketch Plan is submitted to the Administrative Officer (AO)	Subdivider at any time.
2. Sketch Plan Review	Development Review Board (DRB) will review the Sketch Plan at the next regularly scheduled meeting on a first-come, first served basis. Subdivider (and/or his or her authorized representative) must attend if requested.
3. Proposed subdivision is classified as a Minor or Major Subdivision.	DRB, within 45 days of the conclusion of the Sketch Plan Review. Classification is issued in writing.
<b>Minor Subdivisions (Proceed to Final Subdivision Review)</b>	
1. Final Subdivision Plan submitted to AO	Subdivider- must submit final plan within 180 days of receiving classification as a minor subdivision.
2. Final Subdivision Review	AO- after receipt of the Final Subdivision Plan, Zoning Application, and fees, shall warn the application for the next regularly scheduled DRB Hearing date or within 45 days, whichever comes first. <b>* Applicant must attend the hearing.</b>
3. Final Subdivision Plan is approved or disapproved.	DRB- Within 45 days of the close of the Final Subdivision Review Hearing. Decision is issued in writing.
4. Approved Final Subdivision Plan gets recorded in the Town Clerk's Office	Subdivider- Within 180 days of receiving Final Subdivision Plan Approval in accordance with § 4463(b) of the statute.
<b>Major Subdivisions (Proceed to Final Subdivision Review)</b>	
1. Final Subdivision Plan submitted to AO	Subdivider- must submit final plan within 180 days of receiving classification as a major subdivision.
2. Final Subdivision Review	AO- after receipt of the Final Subdivision Plan, Zoning Application, and fees, shall warn the application for the next regularly DRB Hearing date or within 45 days, whichever comes first. <b>* Applicant must attend the hearing.</b>
3. Final Subdivision Plan is approved or disapproved.	DRB- Within 45 days of the close of the Final Subdivision Review Hearing. Decision is issued in writing.
4. Approved Final Subdivision Plan gets recorded in the Town Clerk's Office	Subdivider- Within 180 days of receiving Final Subdivision Plan Approval in accordance with § 4463(b) of the statute.

7.4 **Minor Subdivision.** A minor subdivision is a subdivision of a parcel of land into not more than *eight* lots in a continuous ten year period.

7.5 **Major Subdivision.** A major subdivision is a subdivision of a parcel of land into *nine* or more lots in a continuous ten year period.

## 7.6 Regulations Governing Minor Subdivisions.

7.6.1 A person shall not create a minor subdivision without a permit.

7.6.2 A person desiring to create a minor subdivision shall begin with Sketch Plan Review. The subdivider and/or his or her authorized agent shall submit a Sketch Plan of the proposed subdivision to the Administrative Officer. The Sketch Plan shall include the following information:

7.6.2.1 Name and address of the landowner and/or applicant.

7.6.2.2 Names of all abutting property owners and those immediately adjacent to the subdivider.

7.6.2.3 Name and address of any municipality located within 500 feet of the proposed subdivision.

7.6.2.4 Map drawn to **Scale** showing the location of the development parcel in the town.

7.6.2.5 Any easements or rights of way.

7.6.3 The Administrative Officer may require additional information before recommending that the applicant proceed with the application.

7.6.4 Upon receipt of the complete Sketch Plan, the Administrative Officer shall forward the Sketch Plan to the DRB for review at their next regularly scheduled meeting. In the Sketch Plan Review the DRB shall review the Sketch Plan and accompanying information for compliance with these regulations. The subdivider and/or his or her authorized representative shall attend the meeting of the DRB to discuss the requirements if requested by the AO or DRB. The DRB may schedule additional meetings to continue the Sketch Plan Review.

Within forty-five (45) days of conclusion of the Sketch Plan Review hearing, the DRB shall determine, based on the information provided whether the proposed subdivision is to be classified as a *major* subdivision or a *minor* subdivision in accordance with these regulations.

## 7.7 Minor Subdivision (Final Plan Review)

7.7.1 Within 180 days from receipt of Sketch Plan Review Approval the subdivider shall submit to the AO the following:

7.7.1.1 A completed Zoning Application with fee and a survey map of the subdivision prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated. (if the applicant is a person different from the owner, the owner of the parcel must also sign the application.)

7.7.1.2 The names and addresses of all adjoining property owners and any municipalities located within 500 feet of the proposed subdivision.

7.7.1.3 Any additional information requested by the AO

7.7.1.4 Any additional information requested by the DRB as a result of the Sketch Plan Review.

7.7.2 The Administrative Officer, after receipt of the Final Subdivision Plan, Zoning Application, and fees, shall warn the application for the next regularly scheduled DRB Hearing date or within 45 days, whichever comes first.

7.7.3 The DRB shall approve, approve with conditions, or deny the Final Subdivision Plan within 45 days of the close of the Final Subdivision Review Hearing. The Decision shall be issued in writing.

7.7.4 The applicant shall record a mylar copy of the survey map in the map records in the Town Clerk's Office within 180 days of Final Subdivision Plan Approval. **In accordance with § 4463 (b) failure to record a mylar copy of the survey of the Final Subdivision Plan will result in an expired final approval and the Applicant will have to re-submit for final subdivision approval from the DRB subject to any changes in the zoning regulations.**

## 7.8 Regulations Governing Major Subdivisions.

7.8.1 A person shall not create a major subdivision without a permit.

7.8.2 A person desiring to create a major subdivision shall begin with Sketch Plan Review. The subdivider and/or his or her authorized agent shall submit a Sketch Plan of the proposed subdivision to the Administrative Officer. The Sketch Plan shall include the following information:

7.8.2.1 Name and address of the landowner and/or applicant.

7.8.2.2 Names of all abutting property owners and those immediately adjacent to the subdivider.

7.8.2.3 Name and address of any municipality located within 500 feet of the proposed subdivision.

7.8.2.4 Map drawn to **Scale** showing the location of the development parcel in the town.

7.8.2.5 Any easements or rights of way.

7.8.3 The Administrative Officer may require additional information before recommending that the applicant proceed with the application.

7.8.4 Upon receipt of the complete Sketch Plan, the Administrative Officer shall forward the Sketch Plan to the DRB for review at their next regularly scheduled meeting. In the Sketch Plan Review the DRB shall review the Sketch Plan and accompanying information for compliance with these regulations. The subdivider and/or his or her authorized representative shall attend the meeting of the DRB to discuss the requirements if requested by the AO or DRB. The DRB may schedule additional meetings to continue the Sketch Plan Review.

Within forty-five (45) days of conclusion of the Sketch Plan Review hearing, the DRB shall determine, based on the information provided whether the proposed subdivision is to be classified as a *major* subdivision or a *minor* subdivision in accordance with these regulations.

## 7.9 Major Subdivisions Final Plan Approval.

7.9.1 Within 180 days from receipt of Sketch Plan Approval the subdivider shall submit to the AO the following:

7.9.1.1 A completed Zoning Application with fee and a survey map of the subdivision prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated. (if the applicant is a person different from the owner, the owner of the parcel must also sign the application.)

7.9.1.2 The names and addresses of all adjoining property owners and any municipalities located within 500 feet of the proposed subdivision.

7.9.1.3 Any additional information requested by the AO

7.9.1.4 Any additional information requested by the DRB as a result of the Preliminary Sketch Review.

7.9.2 The Administrative Officer, after receipt of the Final Subdivision Plan, Zoning Application, and fees, shall warn the application for the next regularly scheduled DRB Hearing date or within 45 days, whichever comes first.

7.9.3 The DRB shall approve, approve with conditions, or disapprove the Final Subdivision Plan within 45 days of the close of the Final Subdivision Review Hearing. The Decision shall be issued in writing.

7.9.4 The DRB may, as conditions to approval of an application, determine standards for the design and layout of streets, curbs, gutters, street lights, fire hydrants, shade trees, water, sewage and drainage facilities, public utilities and other necessary public improvements. Such standards shall not exceed, in the case of:

- 7.9.4.1 Streets, more than 50 feet in width of right-of-way nor more than 26 feet of traveled right-of-way;
- 7.9.4.2 Curbs, no more than 6 inches in height of curbing, and then only if the adjacent street and the adjacent walkway are paved;
- 7.9.4.3 Street lights, no more than 1 street light per 100 feet of street length;
- 7.9.4.4 Fire hydrants, as recommended by the Fire Marshall of the State of Vermont;
- 7.9.4.5 Shade trees, no more than 1 shade tree per 50 feet of street length;
- 7.9.4.6 Water, municipal water supply requirements when the municipal water supply will be utilized;
- 7.9.4.7 Sewage and drainage facilities, separated municipal sewer disposal facilities and stormwater drainage facilities, when the municipal sewer disposal facilities and stormwater drainage facilities will be utilized;

7.9.5 In certain circumstances, the failure to complete a major subdivision according to the terms and specifications of any permit may impose a financial burden on the Town or Village, on purchasers of lots in the subdivision, and/or on surrounding landowners. Such circumstances can arise when an applicant's failure to complete a subdivision according to the terms and specifications of a permit will require an expenditure of money to make the subdivision conform to the terms and specifications of the permit. Whenever such circumstances can arise, the DRB may require as a condition of any permit that the applicant provide financial security for completion of the subdivision in the form of a bond, a letter of credit, a deposit of cash, or in such other form approved by the DRB, in an amount not greater than that required to ensure the completion of the subdivision according to the terms and specifications of the permit as approved.

7.9.6 The applicant shall record a mylar copy of the survey map in the map records in the Town Clerk's Office within 180 days of Final Subdivision Plan Approval. **In accordance with § 4463 (b) failure to record a mylar copy of the survey of the Final Subdivision Plan will result in an expired final approval and the Applicant will have to re-submit for final subdivision approval from the DRB subject to any changes in the zoning regulations.**

7.10 No lot that is part of a subdivision with respect to which a permit has been granted shall be sold, transferred, or otherwise conveyed in any manner whatsoever except as shown on the survey map and in accordance with the subdivision permit.

ARTICLE VIII

MISCELLANEOUS

**8.1 Regulations Required by the Act**

8.1.1 Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this by-law, may be developed for the purposes allowed 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 width or depth dimension of no less than 40 feet.

8.1.2 No land development may be permitted on any lot which does not either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such road or waters by a permanent easement or right-of-way of record at least 50 feet in width. The requirement of a 50 foot right-of-way may be waived by the Development Review Board with respect to land development on a lot having a right-of-way in existence prior to the effective date of these Regulations.

8.1.3 These bylaws shall not infringe upon the right of any resident of Lyndon to use a minor portion of his or her dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

**8.2 Lots in Two Zoning Districts.** If a district boundary divides a lot of record on the effective date of these bylaws, no land development may take place on a portion of the lot other than in conformity with the requirements of the district in which such portion is located.

**8.3 Dwellings On Lots and Foundation Requirements.** There shall be only one dwelling on a lot unless otherwise approved pursuant to this bylaw. All dwellings shall be erected on permanent foundations.

**8.4 Building Coverage Includes Open Porches, Carports and Garages.** Porches, carports open at the sides but roofed, and all principal and accessory buildings shall be considered when determining the percentage of building coverage or the size of yards.

**8.5 Reduction of Lot Area.** No lot shall be so reduced in size that the area, yard, lot width, frontage, coverage or other dimensional requirements of these bylaws are smaller than herein for the district in which such lot is located. This Section shall not apply when a portion of a lot is taken for a public purpose.

**8.6 Yards On Corner Lots.** Any yard adjoining a street shall be a front yard.

**8.7 Projection Into Setback Areas.** Every part of a required yard shall be open from grade level to the sky, and shall be unobstructed except for the ordinary projections of sills, cornices, pilasters, chimneys and eaves, provided that no such ordinary projections may extend more than two feet into any required setback distance from any adjoining property or road.

**8.8 Abandonment of Structures or Work in Progress.** If a foundation remains uncovered for twelve months after construction is commenced, or a structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and any remaining excavation shall be covered over or filled to the normal grade by the owner. The DRB may grant a waiver to this Section 8.8 for good cause shown after notice and hearing.

**8.9 Height Regulations.** No structure shall exceed a height of 35 feet above ground level unless Conditional Use Approval is granted by the DRB.

**8.10 Storage of Unregistered Motor Vehicles.** Unlicensed or inoperable motor vehicles shall be stored so that they are not visible from any road nor from any property other than the property on which they are stored.

## 8.11 **Storage of Flammable Liquids Above Ground**

8.11.1 All flammable liquids stored in tanks above ground shall comply with all government and industry regulations, codes and standards applicable thereto.

8.11.2 All tanks having a capacity greater than 275 gallons shall be properly retained with dikes having a capacity of not less than one hundred and ten percent of the capacity of the tanks surrounded.

## 8.12 **Extraction of Soil, Sand or Gravel For Sale Or Use on Another Lot.**

8.12.1 In accordance with Section 4464 b (2) of the Act, the removal of soil, sand or gravel for sale or for use on another lot may be allowed only after the DRB approves, after public notice and hearing, a

plan for the operation and rehabilitation of the site, unless such removal is incidental to and does not exceed the requirements of construction of a structure on the same lot. Any plan shall satisfy the following requirements:

8.12.2 As a condition for approval of any such plan, the applicant shall post a letter of credit, performance bond or other financial instrument satisfactory to the Development Review Board, fixed by the Development Review Board in an amount sufficient to ensure that upon completion of the removal the site will be restored to a safe, attractive and useful condition in accordance with the plan.

8.12.3 The removal of all material shall be carried out such that the contours of the land are not degraded. Digging pits shall not be allowed unless the rehabilitation plan provides for refilling or suitable grading of such pits.

8.12.4 Upon completion of the extraction operations, the site be graded smooth and left in a neat condition. Open slopes and spoil banks shall not be allowed to remain after soil, sand or gravel has been removed from a particular area. The site shall be fertilized, mulched and seeded from time to time so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion.

8.12.5 All surface drainage shall be controlled to prevent debris and other loose materials from filling any drainage course, street or private property.

8.12.6 No removal of soil, sand or gravel, blasting, or stripping of vegetation, shall occur within one hundred feet of any street or property line. The DRB may permit such activity within one hundred feet of any road or property line if it finds that such permission will not deprive the adjoining property or road of lateral support, and if it finds that it is desirable to do so for aesthetic reasons.

8.12.7 No power-activated sorting machinery or equipment shall be located within 100 feet of any street or property line. All such machinery shall be equipped with satisfactory and functioning dust and noise suppression devices.

8.12.8 All excavated slopes over three feet in height having a slope in excess of one on two shall at all times be adequately fenced as determined by the Development Review Board.

8.12.9 Extension of a removal operation that is in existence on the effective date of the adoption hereof shall not be allowed, except after compliance with all of the provisions of this Section 8.12.

8.12.10 The Development Review Board may attach any additional conditions to the plan that it finds necessary to protect the public health, safety or welfare including hours of operation, a limitation on the quantity of material that may be removed from the site in any one day, and other appropriate conditions.



8.13 **Walls, Fences and Similar Structures.** No person shall construct any wall, fence or similar structure within the right of way limits of any town highway, including class 4 town highways, without the approval of the Selectmen.

8.14 **Road Frontage.** No lot may be developed unless it has frontage on a public highway or public waters not less than the applicable frontage. The applicable frontage for lots in each district are those shown on the "Town of Lyndon Minimum Requirements for Development" charts which are a part hereof and appear on the second and third pages following page 33 hereof. This Section 8.14 shall not apply to lots developed on a private right of way pursuant to Section 8.1.2. Section 8.14 also does not apply to lots that are developed with access from a cul-de-sac in any district. Lots that are developed around a cul-de-sac shall have a minimum of 50 feet of frontage on the circumference of the cul-de-sac.

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

8.16 **Residential Care or Group Home.** A residential care home or group home as defined under 24 V.S.A. § 4412 (1) (G) which is to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

8.17 **Home Child Care Facility.** A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property, but requires site plan approval based on local zoning requirements.

## ARTICLE IX

### SITE PLANS

#### 9.1 **Site Plan Approval.**

9.1.1 Application for site plan approval shall be made to the Development Review Board. Unless otherwise specifically provided for herein, site plan approval shall be granted only after public notice and hearing.

9.1.2 Except as provided in Section 9.1.3, no zoning permit or Conditional Use Approval shall be granted unless the applicant delivers to the Administrative Officer evidence that site plan approval has been granted.

9.1.3 Site plan approval shall not be required for the following applications:

9.1.3.1 One- and two-family dwellings.

9.1.3.2 Agricultural uses or structures.

9.1.3.3 A proposed use or structure that is determined by the Development Review Board, upon recommendation of the Administrative Officer at a DRB meeting, to have no effect on

the adequacy of (1) traffic access, (2) circulation and parking, (3) landscaping and screening, (4) protection of the utilization of renewable energy resources.

9.1.4 An applicant seeking site plan approval shall submit to the Development Review Board two sets of site plan maps and supporting data which shall include the following information:

- 9.1.4.1 Name and address of the owner of record of the land in question and of all adjoining lands.
- 9.1.4.2 Name and address of person or firm preparing the map.
- 9.1.4.3 Scale and date of map, and north arrow.
- 9.1.4.4 Survey of the land in question showing existing features, contours, structures, large trees, streets, utility poles, easements of record, rights-of-way, and land use and deed restrictions.
- 9.1.4.5 Site plan showing proposed structures, location and elevations thereof and use to be made of other land subject to application; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
- 9.1.4.6 Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

9.1.5 When considering whether to approve or disapprove any site plan the Development Review Board shall consider the following matters:

- 9.1.5.1 Maximum safety of vehicular circulation between the site and the adjacent street network,
- 9.1.5.2 Adequacy of circulation, parking and loading facilities with particular attention to safety,
- 9.1.5.3 Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility with and protection of adjacent property, and
- 9.1.5.4 Protection of the utilization of renewable energy resources.

9.1.6 Unless a variance or other special action by the DRB must first be obtained, a zoning permit may be issued by the Administrative Officer, pursuant to this bylaw any time within one year of the granting of site plan approval. If a zoning permit is not issued within one year, the site plan approval shall become null and void and reapplication shall be required prior to the issuance of a zoning permit.

9.1.7 When approved, a site plan shall be signed and dated by the Chair of the Development Review Board. No site plan may be altered, modified, changed, or amended without the written approval of the Development Review Board, after public notice and hearing, except upon a finding by the Development Review Board that the proposed amendment does not affect the adequacy of traffic access, circulation and parking, landscaping and screening, or the protection of the utilization of renewable energy resources.

## ARTICLE X

### MOBILE HOME PARKS

#### 10.1 **Mobile Home Parks**

10.1.1 No person shall develop or operate a mobile home park without first obtaining site plan approval from the Development Review Board pursuant to Article IX hereof and a zoning permit from the Administrative Officer pursuant to this bylaw. Before issuing a mobile home park permit, the Development Review Board shall require a performance bond, letter of credit or other financial instrument acceptable to the Development Review Board from the developer or operator of the park in an amount sufficient to assure that the park is developed and operated in accordance with any approvals and permits granted hereunder.

10.1.2 Application for site plan approval for a mobile home park shall be made to the Development Review Board pursuant to Article IX hereof. The application shall be accompanied by a plan and drawings prepared by a registered professional engineer, showing (in addition to the other requirements of the bylaws) the property lines and area of the park, a contour map showing the proposed grading of the park upon completion, and a plan showing the layout of the roads, walkways, mobile home lots, parking areas, water lines, sanitary sewer and storm sewer drainage facilities, telephone lines, cable television lines and electrical distribution lines, the names and addresses of all owners of adjoining property and, where adjoining property is not occupied by the owner thereof, the name and address of such occupier.

10.1.3 The Development Review Board may approve the site plan, approve the site plan with conditions, or reject the site plan. If the Development Review Board approves the plan with conditions, or rejects the plan, it shall state its reasons therefor.

#### 10.2 **Mobile Home Park Standards**

10.2.1 The following requirements shall apply in respect to all mobile homes in mobile home parks and to any proposed mobile home park.

10.2.1.1 Subject to the provisions of Section 10.3.1.9, a mobile home park shall have an area of not less than 2.5 acres, or 8,000 square feet per mobile home lot, whichever is greater.

10.2.1.2 Mobile home parks shall provide for individual mobile home lots, access driveways, parking and recreation open space.

10.2.1.3 Each mobile home lot shall be at least 8,000 square feet in area, and at least 60 feet wide by at least 120 feet in depth, and shall front on an access driveway.

10.2.1.4 All driveways providing access to the Mobile Home Park shall be at least 20 feet in width and have an asphalt or concrete surface, or gravel surface treated with calcium chloride or other appropriate treatment, at least 20 feet in width and 12 inches in depth of compacted gravel.

10.2.1.5 Two parking spaces, each at least 10 feet wide by 22 feet long, shall be provided for each mobile home lot.

10.2.1.6 At least twenty percent of the total area of the Mobile Home Park shall be reserved for recreation and open space purposes.

- 10.2.1.7 A suitable pad shall be provided for each mobile home.
- 10.2.1.8 Each mobile home lot shall have an attachment for water supply. The water supply source for the park shall be approved by the appropriate State Agency, or by the Planning Commission if no State Agency is empowered to grant such approval.
- 10.2.1.9 Each mobile home lot shall have an attachment for sewage disposal. The method of sewage disposal shall be in compliance with applicable state regulations. No sewage disposal system for an individual mobile home shall be located on a mobile home lot unless the dimensions of the lot satisfy the regulations applicable to the district in which the lot is located.
- 10.2.1.10 No mobile home lot, office building or service building shall be located closer than 50 feet to a public street right-of-way line or a property line.
- 10.2.1.11 A buffer strip of land at least 25 feet in width shall be maintained as a landscaped area abutting all mobile home park property lines.
- 10.2.1.12 Space for an accessory building of at least 100 square feet shall be provided with each individual mobile home lot.

## ARTICLE XI

### FLOOD HAZARD REGULATIONS

#### 11.1 **Statutory Authorization and Effect**

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

#### 11.2 **Statement of Purpose**

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the current municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor,
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Lyndon & Village of Lyndonville, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

### 11.3 **Other Provisions**

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

### 11.4 **Lands to Which these Regulations Apply**

#### A. Regulated Flood Hazard Areas

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called “hazard areas”) in the Town of Lyndon & Village of Lyndonville, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

1. The River Corridors as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field-based assessments which are hereby adopted by reference. Where River Corridors are not mapped, the standards in VII C shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope.
2. The Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

#### B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant’s responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

#### C. Interpretation

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

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

#### 11.5 Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

#	Activity  P Permitted C Conditional Use Review X Prohibited A Exempted	Hazard Zone		
		Special Flood Hazard Area	Floodway	River Corridors
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C	C	C
4	Small Accessory Structures	P	X	C
5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
8	Fill as needed to elevate existing structures	C	C	C
9	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance	A	A	A
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P
18	Open space, recreation	A	A	A
19	Forestry	A	A	A
20	Agriculture	A	A	A

#### 11.6 Development Review in Hazard Areas

##### A. Permit

A permit is required from the Administrative Officer for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

##### B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway and outside of the River Corridors, and meeting the Development Standards in Section VII, require only an administrative permit from the ZA:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

C. Prohibited Development in Special Flood Hazard Area and River Corridors

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for the following proposed development:

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities;
8. Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet;
9. Accessory structures in the River Corridors, of 500 square feet or less, that represent a minimal investment;
10. Building utilities in the River Corridors; and,
11. At-grade parking for existing buildings in the River Corridors.

E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

F. Variances

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section 11.8.

1. A variance for development within the River Corridors may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

G. Nonconforming Structures and Uses

The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section 11.6 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and,
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

**11.7 Development Standards**

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area

1. *All development* shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;



- f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
  3. *Substantially improved or replacement primary structures in the special flood hazard area* must not increase base flood elevations or flood velocities. Such development shall not be permitted unless:
    - a. it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 0.1 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a registered professional engineer; or,
    - b. the proposal provides compensatory storage for floodwater (in the same reach and at elevations up to and including the base flood elevation) to offset the impacts of the proposal. The net post-construction flood storage capacity shall not be less than the pre-construction capacity. A volumetric analysis and supporting data must be provided by the applicant and certified by a registered professional engineer; or,
    - c. The hydraulic and volumetric analyses will be waived for replacement or relocated primary structures where the proposal indicates no new fill and no increase in the structure's footprint (or an open foundation design).
  4. *Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate.
  5. *Non-residential structures to be substantially improved shall:*
    - a. Meet the standards in 11.7 (A) (4); or,
    - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

6. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
7. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall:
  - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one 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 floodwaters.
8. *Recreational vehicles* must be fully licensed and ready for highway use.
9. A *small accessory structure* of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in VII A 6 (above).
10. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
11. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
12. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
13. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
14. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
15. *Subdivisions and Planned Unit Developments* must be accessible by dry land access outside the special flood hazard area.
16. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

## B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
  - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

## C. River Corridors

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank;
2. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank;
3. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
4. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events;
6. Bridge and culvert projects must have a Stream Alteration Permit; and,
7. Channel management activities must be authorized by the Agency of Natural Resources.

## 11.8 **Administration**

### A. Application Submission Requirements

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin.

B. Referrals

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

C. Decisions

The DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information.

D. Records

The Administrative Officer shall properly file and maintain a record of:

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

11.9 **Certificate of Occupancy**

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or River Corridors until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy can not be issued, notice will be sent to the owner and copied to the lender.

## 11.10 Enforcement and Penalties

- A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 117 § 4451, § 4452 and 24 VSA Chapter 59 §1974a, A copy of the notice of violation will be mailed the State NFIP Coordinator.
- B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.11.1

## 11.11 Definitions

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

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

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

**“Base Flood Elevation” (BFE)** is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**“BFE”** see Base Flood Elevation

**“Buffer”** means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

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

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

**“Common plan of development”** is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

**“Compensatory storage”** means a volume not previously used for flood storage and which shall be in a volume not previously used for flood storage and which shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.

Further, with respect to waterways such compensatory volume shall be provided within the same reach of river, stream, or creek.

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

**“Development”** means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

**“FIRM”** see Flood Insurance Rate Map

**“Flood”** means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**“Flood Insurance Rate Map” (FIRM)** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

**“Flood Insurance Study”** means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**“Floodplain or flood-prone area”** means any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

**“Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

**“Floodway, Regulatory in Town of Lyndon & Village of Lyndonville”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

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

***“Historic structure”*** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

***“Letter of Map Amendment (LOMA)”*** is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

***“Lowest floor”*** means the lowest floor of the lowest enclosed area, including basement, except 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 44 CFR 60.3.

***“Manufactured home (or Mobile home)”*** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

***“New construction”*** for regulation under this bylaw, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

***“Nonconforming structure”*** means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, 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. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

***“Nonconforming use”*** means use of land 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.

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

***“Non-residential”*** includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

***“Recreational vehicle”*** means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

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

**“Special Flood Hazard Area”** is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov) Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**“Start of construction”** for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

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

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

**“Substantial improvement”** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

**“Violation”** means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.



## ARTICLE XII

### PLANNED UNIT DEVELOPMENTS

12.1 In accordance with the provisions of 24 V.S.A. 4417, Planned Unit Developments are hereby permitted in order to encourage flexibility and innovation in the design and layout of residential developments, and more efficient use of land; to facilitate the adequate and economical provisions of streets and utilities, to maximize energy conservation, and to preserve the natural and scenic qualities of the open land of the Town. Accordingly, the Development Review Board may modify the operation of these By-laws to an application for a permit for a Planned Unit Development, subject to the conditions set forth herein.

#### **12.2 PUD Approval**

12.2.1 Upon receipt of the completed Sketch Plan, the Administrative Officer shall forward the Sketch Plan to the DRB for review at their next regularly scheduled meeting. In the Sketch Plan Review the DRB shall review the Sketch Plan and accompanying information for compliance with these regulations. The developer and/or his or her authorized representative shall attend the meeting of the DRB to discuss the requirements if requested by the AO or DRB. The DRB may schedule additional meetings to continue the Sketch Plan Review.

12.2.2 Within forty-five (45) days of conclusion of the Sketch Plan Review hearing, the DRB shall determine, based on the information provided what details the developer will need to provide to the DRB for final review.

#### **12.3 PUD Final Plan Approval Process.**

12.3.1 Within 180 days from receipt of Sketch Plan Approval the developer shall submit to the AO the following:

12.3.1.1 A completed Zoning Application with fee and a survey map of the Planned Residential Development prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated and any additional engineering plans, or landscaping plans required by the DRB as part of the sketch plan approval process. (if the applicant is a person different from the owner, the owner of the parcel must also sign the application.)

12.3.1.2 The names and addresses of all adjoining property owners and any municipalities located within 500 feet of the proposed subdivision.

12.3.1.3 Any additional information requested by the AO

12.3.1.4 Any additional information requested by the DRB as a result of the Preliminary Sketch Review.

12.3.1.5 If the Applicant cannot complete the survey and provide the additional information requested within 180 days they Applicant may request an extension to complete the necessary work, the DRB may approve an extension for good cause.

12.3.2 The Administrative Officer, after receipt of the Final PUD Plans, Zoning Application, and fees, shall warn the application for the next regularly scheduled DRB Hearing date or within 45 days, whichever comes first.

12.3.3 The DRB shall approve, approve with conditions, or disapprove the Final PUD Plan within 45 days of the close of the Final PUD Review Hearing. The Decision shall be issued in writing.

12.3.4 The DRB may, as conditions to approval of an application, determine standards for the design and layout of streets, curbs, gutters, street lights, fire hydrants, shade trees, water, sewage and drainage facilities, public utilities and other necessary public improvements. Such standards shall not exceed, in the case of:

## **12.4 General Standards.**

12.4.1 A Planned Unit Development shall comply with the following standards and conditions:

12.4.1.1 It will not result in undue water or air pollution. In making this determination the Development Review Board shall consider with respect to the Planned Unit Development (1) the availability and capacity of municipal sewer facilities, or the nature of the applicable soils and subsoils and their ability to support waste disposal adequately, (2) the relation of the land to the flood hazard areas, (3) protection of ground and surface water through appropriate vegetative buffers, retention structures and other techniques and devices, and (4) all applicable regulations of the Health Department and other State agencies.

12.4.1.2 It will have sufficient potable water available for the reasonable foreseeable needs of the development.

12.4.1.3 It will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

12.4.1.4 It will not cause unreasonable highway congestion or unsafe conditions with respect to use of existing or proposed highways.

12.4.1.5 It will not cause an unreasonable burden on the ability of the Town to provide educational services and facilities.

12.4.1.6 It will not cause an unreasonable burden on the ability of the Town to provide other municipal or governmental services and facilities.

12.4.1.7 It will not have a material adverse effect on natural resources including streams, wetlands, scenic views, wildlife habitats, forests or farms.

12.4.1.8 It will not have a material adverse effect on the scenic or natural beauty of the affected area, will be aesthetically compatible with surrounding developed properties, and will protect rare or irreplaceable natural areas and any historic sites.

12.4.1.9 It will provide convenient allocation and distribution of common open space in relation to proposed development.

12.4.1.10 It will provide an efficient layout and high-quality installation, construction, and maintenance of streets and public facilities.

12.4.1.11 It will provide for cooperation with adjoining properties where necessary for the extension of roadway, drainage facilities, and utility lines.

12.4.1.12 It will conform to the Town Plan.

## 12.5 **Density Calculations.**

12.5.1 Maximum density for a Planned Unit Development shall not exceed the density permitted in the district in which the development is located. The permitted density for a development shall be determined as provided below:

12.5.1.1 A base maximum density shall be established by establishing the buildable area of the land to be developed (excluding areas with excessively steep slopes, excessive wetness, and within flood hazard areas), subtracting 15% for roadways, and multiplying the remaining area times the permitted density per acre for the district. For the purposes of this subsection, excessively steep slopes shall be defined as those having a slope of 1:1 or greater. Excessive wetness shall be defined as areas of standing water (e.g., ponds) and wetlands as classified in the National Wetlands Inventory.

12.5.1.2 The Development Review Board shall have the authority to permit densities greater than those allowed in Section 12.3.1.1 above according to the degree to which the development satisfies the general standards listed in Section 4.4.5 and the specific standards for a Planned Unit Development in a given district.

12.6 **Open Space.** Open space or common land shall be in a location or locations, size and configuration approved by the Development Review Board. Any open space resulting from a Planned Unit Development shall be protected by appropriate devices, legally enforceable by the Town and any affected parties, to insure its maintenance and appropriate use. Such restrictions may include, but are not limited to, one or more of land use covenants, homeowners' associations, transfer or dedication for municipal use (e.g. parkland, underground utility easements, pedestrian easements, etc.), long term lease for recreational uses or for agriculture, or other appropriate devices.

## 12.7 **Miscellaneous Provisions.**

12.7.1 The application for a Planned Unit Development shall specify reasonable time periods within which each section of the development may be started and completed. The timetable shall be approved by the Development Review Board.

12.7.2 Each application shall be prepared in accordance with the specifications of the applicable subdivision regulations, site plan requirements (including landscaping requirements), and other such data or information as the Development Review Board may require.

12.7.3 A Planned Unit Development shall be reviewed under the standards for the district in which it is proposed.

12.7.4 An application for a Planned Unit Development shall specify all land owned or controlled by the applicant which will be included in and be made subject to any Planned Unit Development approval. Calculation of maximum allowable density, maximum allowable building coverage and maximum allowable total lot coverage shall be based on the total land area specified in the Planned Unit Development and not on the individual lots, if any, within the Planned Unit Development.

ARTICLE XIII

ADMINISTRATION AND ENFORCEMENT

**13.1 Administrative Officer; Fees**

13.1.1 The Administrative Officer shall administer these bylaws pursuant to Section 4448 of the Statute. The Administrative Officer shall enforce these Regulations literally and in so doing shall inspect developments, maintain records and perform all other tasks necessary to carry out the provisions of these bylaws. Appeals from any decision or act taken by the Administrative Officer shall be made as provided for in Sub-chapter 10 of the Statute.

13.1.2 The Town of Lyndon currently operates with a Planning Commission and a Development Review Board often referred to as the Appropriate Municipal Panels (AMP). Each AMP has a distinct set of responsibilities for which it is responsible.

13.1.2.1 The primary function of the Planning Commission is to prepare and amend the municipal plan (town plan) and the zoning by-laws, and also to advise on amendments that are made by others. The Planning Commission is charged with providing long term perspective to day-to-day decision-making. The Planning Commission has a role of bringing the community together to see that the public's interest and general welfare of the community are put ahead of personal interests. In addition to drafting the municipal plan and zoning by-laws the Planning Commission also has the following powers: 1. Prepare and present a capital budget; 2. Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development; 3. Require information from other departments of the municipality that relates to the work of the Planning Commission; 4. Participate in the regional planning program; 5. retain staff and consultant assistance; and 6. perform such other tasks as it deems necessary or appropriate in order to fulfill the duties and obligations imposed by Chapter 117 of Title 24.

13.1.2.2 The primary function of the Development Review Board (DRB) is to perform development review. When performing development review the DRB is acting in a quasi-judicial capacity because it is applying the by-laws to a specific application, and is in effect acting like a court. The DRB is responsible for hearing all applications for development review including site plan, sub-division, variance, conditional use, administrative officer (AO) appeals, and other reviews authorized by the by-laws.

13.1.3 Fees shall be established by the Selectboard.

**13.2 Applications for Permits**

13.2.1 No person shall commence development without first obtaining a permit therefor pursuant to these bylaws. A person who wishes to undertake development shall first apply in writing to the Zoning Administrator for a permit. The written application shall contain the following information:

13.2.1.1 The name of the owner of the land affected by the development

13.2.1.2 If different, the name of the person who wishes to develop the land

13.2.1.3 The precise location of the land

13.2.1.4 The district or districts in which the land is located

13.2.1.5 The book and pages where the latest deed or deeds to the land in question is recorded

13.2.1.6 A brief written description of the proposed development

13.2.1.7 The dates the development will commence and will be completed

13.2.1.8 The estimated cost of the development

13.2.1.9 The identity of any contractor who will perform the proposed development

13.2.1.10 A plot plan, drawn to scale, showing

- 13.2.1.10.1 the boundary lines of the land;
- 13.2.1.10.2 the location of the development;
- 13.2.1.10.3 existing and proposed set-backs from other buildings (if any) on the land and from the boundary lines of the land;
- 13.2.1.10.4 the exact location of on-site water and/or on-site sewage disposal facilities, if any;
- 13.2.1.10.5 the exact location of off-site water and/or off-site sewage disposal facilities, if any;
- 13.2.1.10.6 the size, location, design and construction of any proposed sign; and
- 13.2.1.10.7 the location of any land affected by the application that lies within a flood hazard area or is in the National Wetlands Inventory;

13.2.11 Any other additional information the Zoning Administrator may reasonably require to be included in the Application.

13.3 In addition to the information to be included in the written application for a permit, the applicant shall mark on the ground the location of all improvements to be constructed on, or otherwise made to, the affected land.

13.4 The procedure for granting or denying permits shall be as provided in Subchapter 9 of Chapter 117, Title 24, Vermont Statutes Annotated.

13.5 An application shall be denied immediately if any required fee, plot plan, or any required approval from the DRB is not submitted with the application.

13.6 The Administrative Officer shall, no later than 30 days after submission of the application, either issue, deny, or refer a zoning permit.

13.7 The Administrative Officer shall notify the applicant in writing whether the permit is approved or denied and shall state the reasons therefor.

13.8 If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issue, or the zoning permit shall become null and void, unless the DRB, upon application filed within such two year period and after notice and hearing, extends the completion date for good cause shown.

13.9 In connection with the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of Section 4449 of the Act.

#### 13.10 Certificates of Occupancy.

13.10.1 No person shall use or occupy, or permit the use or occupancy, of any land or structure that is created, erected, converted, changed, altered or enlarged after the effective date of this by-law, unless upon

completion the Administrative Officer certifies in accordance with the Act that the location and proposed use of the structure or land conforms to the requirements of the zoning permit that was granted in connection therewith.

13.10.2 Application for a Certificate of Occupancy shall be made to the Administrative Officer on forms provided by the Town for that purpose.

13.10.3 Before issuing any Certificate of Occupancy, the Administrative Officer shall first be satisfied that the location and proposed use of the structure or land, as completed, conforms to the requirements of the applicable zoning permit.

13.10.4 The DRB may, after notice and hearing and with such conditions as seem appropriate to the DRB, authorize the use or occupancy of a structure or land prior to the issuance of a Certificate of Occupancy.

13.11 **Penalties.** Any violation of these bylaws is subject to penalty as provided in Sections 4451 and 4452 of the Act.

### 13.12 Appeals

13.12.1 **Zoning Administrator Decisions.** In accordance with § 4465 of the Act, an interested person may appeal any decision or act taken by the administrative officer in any municipality by filing a notice of appeal with the secretary of Development Review Board of that municipality or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

13.12.2 **Notice of Appeal.** In accordance with § 4466 of the Act, a notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

13.12.3 **Hearing on Appeal.** The Development Review Board shall conduct a hearing of the appeal, as provided in Section 4468 of the Act, and such hearing shall be held within sixty (60) days of the filing of the notice of the hearing. In accordance with Section 4464 of the Act, the DRB shall render a decision within forty-five (45) days after completing the hearing.

13.12.4 **Development Review Board Decisions.** In accordance with section 4471 of the act, an Interested Person who has participated in a proceeding of the Development Review Board may appeal a decision rendered in that proceeding within 30 days of such decision to the Vermont Environmental Court

13.12.4.1 Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

13.12.4.2 The notice of the appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the administrative officer, who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

13.13 **Public Notice.** Any public notice required by these bylaws, whether or not required by any provision of the Act, and whether applicable to the DRB, shall be given by the publication of the date, place and purpose of such hearing in a newspaper of general publication in Lyndon and the posting of such notice in one or more public places within the municipality not less than 15 days prior to the date of the public hearing. The day of publication and the day of hearing are not included in the 15 days. In every case in which public notice is required, such public notice shall include a brief summary of the purpose of the hearing.

13.14 **Issuance of Permits by the Administrative Officer.** A copy of all permits issued by the Administrative Officer under his/her authority will be sent to owners of adjacent property within one working day of issuance. The purpose of this provision is to advise adjacent property owners of actions taken in the event the adjacent owner would desire to appeal the decision. This provision does not apply to permits that have been issued under the authority of the DRB after warning and hearing.

## ARTICLE XIV

### AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

14.1 **Amendments.** These bylaws may be amended according to the requirements and procedures established in Sections 4441 and 4442 of the Act.

14.2 **Interpretation.**

14.2.1 These bylaws shall be interpreted to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

14.2.2 Except as is provided in Section 4413 (c) of the Act, and where it is specifically provided to the contrary in these bylaws, these bylaws are not intended to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these bylaws impose a more stringent requirement upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these bylaws shall control.

14.3 **Effective Date.** The effective date of these bylaws shall be determined according to Section 4442C of the Statutes.

14.4 **Separability.** The invalidity of any article or section of these bylaws shall not invalidate any other article or section thereof.

14.5 **Repeal.** The ordinance entitled the "Zoning Ordinance of the Town of Lyndon," adopted in accordance with the now superseded provisions of Vermont Statutes Annotated, Title 24, Chapter 59, together with all changes and amendments thereto is repealed as of the effective date of these bylaws.

## ARTICLE XV

### PERSONAL WIRELESS SERVICE FACILITIES

15.1 **Applicability.**

The regulations contained in article 15 are in addition to and do not replace other sections of these bylaws that may apply to personal wireless services and facilities required to provide such services.

15.2 **Purpose.**

The purpose of this Article 15 is to:

15.2.1 encourage the development of personal wireless services in the Town of Lyndon (the "Town") to accommodate the needs of its residents and businesses;

15.2.2 protect the health, safety and welfare of the Town by requiring owners and operators of personal wireless service facilities to (i) prevent unauthorized access to their facilities, and (ii) construct facilities so that they do not pose a danger to the physical safety of nearby property;

15.2.3 encourage the co-location of facilities consistent with the provisions of Section 15.2.1;

15.2.4 protect and preserve the scenic, historic, environmental and natural resources of the

Town;

15.2.5 authorize the Town to regulate the location, design, appearance, construction, monitoring, modification, and removal of facilities; and

15.2.6 discourage the location of facilities in the Park District, Residential Neighborhood Districts, residential areas and parks.

### 15.3 Authority.

Pursuant to Chapter 117 of Title 24 of the Vermont Statutes Annotated, the Development Review Board ("the DRB") is hereby authorized to review, to approve with or without conditions, and to deny applications for approval of site plans and for zoning permits to establish personal wireless service facilities in the Town. A DRB is authorized to hire persons and firms to conduct independent technical reviews of and investigations into an application on its behalf to advise the DRB about such applications, and to require an applicant for approval of a site plan or for a zoning permit to establish personal wireless service facilities to pay the reasonable costs thereof. In the event an applicant will be required to pay for such services, the DRB shall first notify the applicant thereof in writing. The notice shall also inform the applicant of the estimated cost of such services and the identity of the firm or person that will provide them.

### 15.4 Certain Requirements of Federal Law.

In addition to other findings required by this Article 15 and these Bylaws, a DRB shall find that any decision it makes about an application for a zoning permit or approval of a site plan for personal wireless service facilities is consistent with federal laws and regulations. The DRB shall not:

15.4.1 prohibit the establishment of personal wireless service facilities in the Town;

15.4.2 unreasonably discriminate between or among providers of functionally equivalent personal wireless service services; or

15.4.3 deny a permit to establish or regulate personal wireless services on the basis of the environmental effects of radio frequency emissions if the personal wireless services and facilities comply with all applicable federal laws and regulations concerning such emissions.

Notwithstanding the foregoing, telecommunications facilities may be located in the Park District, the Main Street District, or a park only if the applicant shows that the proposed location of the facilities will provide personal wireless services that are superior to the services that can be provided from other locations that are or may be available for the location of telecommunications facilities. Such facilities shall be installed inside a structure approved by the DRB and shall not be visible from outside the structure. In a Residential Neighborhood District and residential areas facilities shall be installed inside a structure approved by the DRB, and/or shall have minimal visual impact from outside the structure.

### 15.5 Permits.

A facility may be permitted as a conditional use in any district in the Town if it satisfies all of the requirements of this Article 15. An applicant for a permit to establish a facility must (i) be a provider of personal wireless services, or (ii) include in its application for approval of a site plan or for a zoning permit a copy of a binding contract with a provider of personal wireless services to utilize its facility. No person shall commence construction or installation of or modification to any facility without first obtaining site plan approval and conditional use permit from the Development Review Board.

### 15.6 The Application.

In addition to all other information required by these bylaws, an applicant for approval of a site plan or a zoning permit to establish a facility shall include the following information in or with the application:

15.6.1 the landowner(s) of record of the applicable site;

15.6.2 if the applicant is not a natural person, the state in which it is organized and the street and mailing addresses of its principal office;



- 15.6.3 the name(s), address(es) and telephone number(s) of the person(s) to be contacted about the application;
- 15.6.4 the person(s) authorized to act on the applicant's behalf in the event of an emergency affecting the facility;
- 15.6.5 engineering reports addressed to the DRB from qualified and licensed engineers, each bearing the engineers' signatures, stamps or seals, and registration numbers:
  - 15.6.5.1 describing the height, design and elevation of the facilities;
  - 15.6.5.2 certifying the height above grade for all proposed mounting positions for any antennas to be located on a structure and the minimum separation distances between the antennas;
  - 15.6.5.3 describing the capacity of a proposed structure, including the number, height, width and type of facilities that the applicant expects the structure to accommodate;
  - 15.6.5.4 describing how the applicant will avoid radio frequency interference with any existing or approved personal wireless services in the Town and surrounding areas including information demonstrating there will be no interference, and evidence that the information has previously been provided to public safety agencies and other providers or users of telecommunications services that might be affected by the applicant's facilities;
  - 15.6.5.5 demonstrating that no existing facilities or other structures, whether within or outside of the Town, can reasonably be used or modified to enable the applicant to provide adequate personal wireless services in the Town;
  - 15.6.5.6 identifying changes to existing facilities or sites in their current state that would enable the applicant to provide adequate personal wireless services in the Town;
  - 15.6.5.7 describing the output frequency, number of channels, power output per channel, signal pattern and area of coverage for each proposed facility;
  - 15.6.5.8 if applicable, stating reasons for seeking capacity in excess of the applicant's immediate requirements, as well as plans the applicant has for the development of additional personal wireless service or facilities within the Town or within a radius of 15 miles of the Town;
  - 15.6.5.9 describing the radio frequency radiation at the site, whether the personal wireless services the applicant proposes to provide are regulated by any state or federal agency, and the evidence on which the statement is based; certifying that the personal wireless services and facilities will comply with all applicable federal and state laws and regulations; and
  - 15.6.5.10 providing any other information required by the DRB with respect to a particular application for a permit;
- 15.6.6 a binding commitment obligating the applicant, the landowner and its, his, her or their successors to permit shared use of a proposed structure at commercially reasonable cost if additional users agree to satisfy reasonable terms and conditions for shared use including compliance with all applicable Federal and State regulations and the standards and requirements of this Article XV;
  - 15.6.6.1 in the case of an application to install a facility on an existing structure, a copy of the applicant's contract with the owner of the existing structure; and
  - 15.6.6.2 if one is required by the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4347, a copy of the Environmental Assessment final report.

**15.7 Requirements for Applications for Site Plan Approval.**

In addition to the requirements found elsewhere in this ordinance, site plans for proposed personal wireless services and facilities shall include the following information:

- 15.7.1 a copy of a portion of the most recent USGS Quadrangle map showing the area within a five mile radius of the proposed site;
- 15.7.2 a map showing the area within a 1250-foot radius of the site drawn at the scale of one (1) inch equals one hundred (100) feet, including the facilities, topography, public and private roads and driveways, buildings and structures, bodies of water, wetlands, landscape features, historic sites and wildlife habitats. This map shall show the property lines of the proposed site and all easements or rights of way needed for access from a public way to the facilities;
- 15.7.3 proposed site plans of the personal wireless service facilities showing all improvements including but not limited to landscaping, utility lines, guy wires, screening, building footprints and roads;

- 15.7.4 building elevations of all facades indicating all exterior materials and colors of the personal wireless service facilities;
- 15.7.5 in the case of a proposed site for a tower, the average height of the existing vegetation within 200 feet of the base of the tower;
- 15.7.6 sequence and time schedule for completion of the construction of each phase of the facilities; and
- 15.7.7 such other information required by the DRB with respect to a particular application.

#### **15.8 Design Requirements for Personal Wireless Service Facilities.**

15.8.1 Proposed facilities shall be designed to minimize any adverse affect on the view from any vantage point within the surrounding area. The height and mass of personal wireless service facilities shall not exceed those which are essential for its intended use and public safety. In no event shall the height of a personal wireless service facility exceed 140 feet above grade.

15.8.2 Towers, antennas and any structures shall be designed to the extent possible to blend into the surrounding environment, except in cases in which state or federal authorities have imposed contrary requirements.

15.8.3 All structures (except for utility poles where specifically exempted by the DRB) shall satisfy the setback requirements of the zoning district in which the proposed facility is to be located. In the case of an application to install a tower, if the setbacks in the applicable zoning district are less than 150% of the height of the tower, the minimum distance from the base of the tower to any property line shall be not less than 150% of the height of the tower.

15.8.4 The Development Review Board may impose conditions requiring that ground mounted equipment, antennas and structures be screened from view.

15.8.5 The Development Review Board may require construction of fences or other devices that will prevent unauthorized entry onto a facility.

15.8.6 The Development Review Board shall require that a facility be maintained in a good state of repair at all times. If a permittee fails to maintain a personal wireless service facility in a good state of repair, the Town may perform such maintenance at the sole expense of the permittee.

#### **15.9 Changes to Existing Personal Wireless Service Facilities.**

An alteration of or addition to a previously approved facility shall require a permit amendment when any of the following are proposed:

- 15.9.1 a change in the number of structures or facilities on the permitted site;
- 15.9.2 a material change in the technology used at the facility; or
- 15.9.3 the addition of or change to any equipment resulting in greater visibility, structural wind loading or height that was not authorized in the original permit

#### **15.10 Lighting, Signs and Noise.**

Facilities shall not be illuminated by artificial means unless such lighting is required by federal or state law or regulation. Any lighting shall be subject to review and approval by the DRB.

The DRB may require that the design of a proposed facility be altered to eliminate the need for lighting. No signs or lettering shall be placed on a tower or antenna unless required by federal or state law or regulation. Noise created by the existence or from the operation of any facility shall be undetectable at the perimeter of the site on which facilities are located.

#### **15.11 Temporary Wireless Communication Personal Wireless Service Facilities.**

Any personal wireless service or facility designed for temporary use is subject to the following:

- 15.11.1 a person shall apply for a permit to install a facility or provide personal wireless services for temporary use;
- 15.11.2 temporary personal wireless services or facilities may be permitted for no longer than ten days. A permit for or site plan approval of a temporary facility may be renewed for good cause shown;
- 15.11.3 a temporary facility shall not exceed 50 feet in height from grade; and

15.11.4 temporary personal wireless services and facilities shall be subject to all other applicable sections of these regulations.

**15.12 Abandoned Personal Wireless Facilities.**

Abandoned facilities shall be removed as follows:

15.12.1 a facility or an element thereof shall be deemed to have been abandoned if (i) it is not placed in service within two (2) years of the date on which a zoning permit for the facility was issued, or (ii) if it is not used for more than 180 days in any calendar year other than the first year of its operation; and

15.12.2 abandoned personal wireless service facilities shall be removed within 180 days of cessation of use unless an extension of time is granted by the DRB for good cause shown. In the event a personal wireless service facility is not removed within 180 days of the cessation of use, the Town shall notify the permittee and the owner of the affected land and the Town may remove any or all of the facilities. Costs of removal shall be assessed against and paid by the property owner and the owner of the personal wireless service facilities.

**15.13 Communications Antennae and Facilities.**

15.13.1 Except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places, no permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

15.13.2 If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit or public purposes, it shall not be regulated under this chapter if it is located on a structure located within the boundaries of a downhill ski area and permitted under this chapter. For the purposes of this subdivision, "downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.

15.13.3 The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

15.13.4 A municipality may regulate communications towers, antennae and related facilities in its bylaws provided that such regulations do not have the purpose or effect of being inconsistent with subdivisions (A) through (C) of this subdivision (8).

**15.14 De minimis telecommunications impacts.**

An officer or entity designated by the municipality shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the bylaws, shall approve the application. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2005, No. 172 (Adj. Sess.), § 5, eff. May 22, 2006; 2007, No. 79, § 15; 2007, No. 79, § 15, eff. June 9, 2007; 2009, No. 54, § 45, eff. June 1, 2009.)

**15.15 Bond.**

The Development Review Board shall require, as a condition of any zoning permit to install a facility, that the Permittee post a bond, irrevocable letter of credit, or other security reasonably satisfactory to the DRB, with such terms and conditions that the DRB may require, as security for the payment of any costs incurred by any person under Sections 15.8.1 and 15.12.

## ARTICLE XVI

### SIGNAGE

16.1 **Purpose.** The purpose of these sign regulations is to encourage the use of free-standing and building signage which is compatible with the community character, is readable, clear, non-distracting to vehicular traffic, and is maintained in safe and good repair.

16.2 **Applicability.** A zoning permit shall be required prior to the erection, construction, or replacement of any outdoor sign, except for signs which are specifically exempt under these by-laws.

16.3 **General Standards.** All signs other than those specified as being exempt shall require a zoning permit issued by the AO. The number, type, and size of permitted signs may be found in Table 16.13.

16.4 **Exempt Signs.** No zoning permit application shall be required for the following types of signs in accordance with 10 V.S.A. § 494.

16.4.1 Signs located on or in the rolling stock of common carriers.

16.4.2 Signs on registered and inspected motor vehicles except those which are determined by the travel information council to be circumventing the intent of this chapter.

16.4.3 Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of common carriers by motor bus.

16.4.4 Signs erected by the state or town on public roads including “welcome” signs and official traffic control signs.

16.4.5 A residential directional sign which does not exceed four square feet in area, along highways other than limited-access facilities (but not within the highway right-of-way), except that a permit is required if the person maintains a professional, commercial or business activity at this residence and wishes to indicate its existence.

16.4.6 Small signs displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas or the like, with a total surface area not exceeding four square feet.

16.4.7 Signs to be maintained for not more than two weeks announcing an auction, or a campaign, drive or event of a civic, philanthropic, or religious organization.

16.4.8 Memorial signs or tablets.

16.4.9 Signs erected by county fairs and expositions for a period not to exceed three weeks.

16.4.10 Directional signs, subject to regulations adopted by the Federal Highway Administration with a total surface area not to exceed six square feet providing directions to places of business offering for sale

agricultural products harvested or produced on the premises where the sale is taking place, or to farmers' markets that are members of the Vermont farmers market association selling Vermont agricultural products.

### **16.5 Other Exempt Signs.**

16.5.1 A sign advertising the sale or lease of real estate by the owner or an agent shall not have an area of more than six square feet, including the panel and the frame. Signs attached to "for sale" or "for lease" signs which state "sold," "sale pending," "sale under contract" or similar messages shall not be permitted.

**16.6 Prohibited Signs.** No official business directional sign, on-premise sign, residential directional sign, or exempt sign may be erected or maintained, which:

16.6.1 Interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt to direct the movement of traffic.

16.6.2 Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic.

16.6.3 Contains, includes or is illuminated by any flashing intermittent or moving lights, or moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign, barber poles, theatre marquees that conform with state law.

16.6.4 Is located upon a tree, or painted or drawn upon a rock or other natural feature, except that this restriction shall not apply to residential directional signs.

16.6.5 Advertises or calls attention to a business or other activity, or a profession, commodity, product, service or entertainment not on the premises. Except for those that conform with state law.

16.6.6 Advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities.

### **16.7 Illuminated Signs.**

16.7.1 Illuminated signs shall be shielded in such a way as to produce no glare, light pollution to the night sky, undue distraction to vehicular traffic, hazard to the surrounding area, or a nuisance to adjoining properties.

16.7.2 A sign may be illuminated only by a continuous, non-flashing light of a single color. Such lighting must be effectively focused and shielded so that it does not cause undue glare, impair the vision of drivers or illuminate neighboring properties.

16.7.3 Table 16.13 shows the Districts whereby Externally and Internally lighted signs are permitted.

16.7.4 The period of time a sign may be lit will be determined by the Zoning District in which it falls. Table 16.13 provides the required time at which signs must be turned off.

### **16.8 Building signs.**

16.8.1 No flush-mounted sign erected on a wall, gable end, roof section or any other part of a structure shall be allowed to extend beyond the overall length of the building the sign is mounted on, nor shall the sign be allowed to extend above the highest roof or ridge line of any part of that structure. (Figures 1, 2, & 3)

16.8.2 Any sign not meeting the requirements of Section 16.7.1 shall require a conditional use approval.

### **16.9 Setbacks.**

16.9.1 No official business directional sign, on-premise sign, residential directional sign, or exempt sign shall be placed within the road Right of Way; or along any road or street in a manner which obstructs the line of

sight for vehicular traffic”. This is intended to mean that in some instances a sign may need to be set back from the road more than just the edge of the right of way in order to ensure safety.

16.9.2 In cases where a sidewalk exists, the sign must be out of the Right of Way limits of the road, and the sign must be set back at least 4 feet from the non-road side edge of the sidewalk.

16.9.3 All signs shall meet the required side and rear setbacks for the district in which they are located.

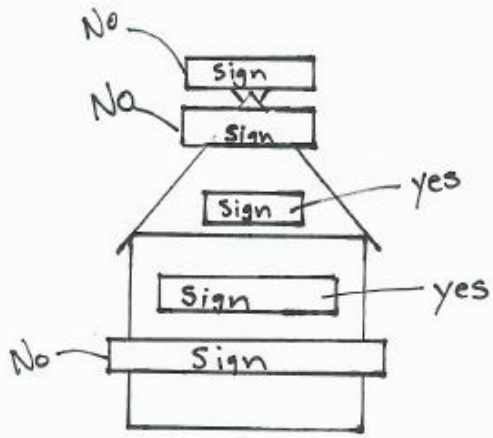


Figure 1

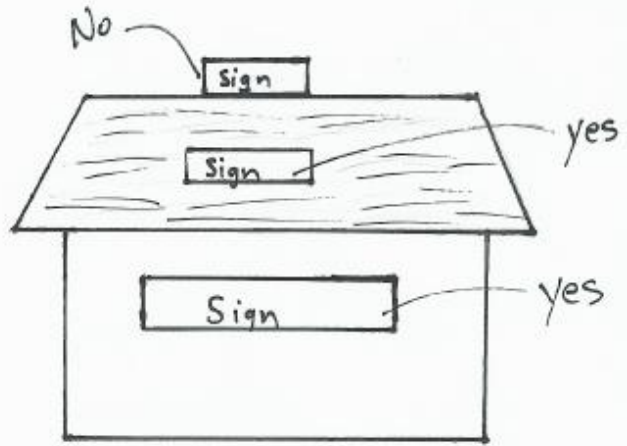


Figure 2

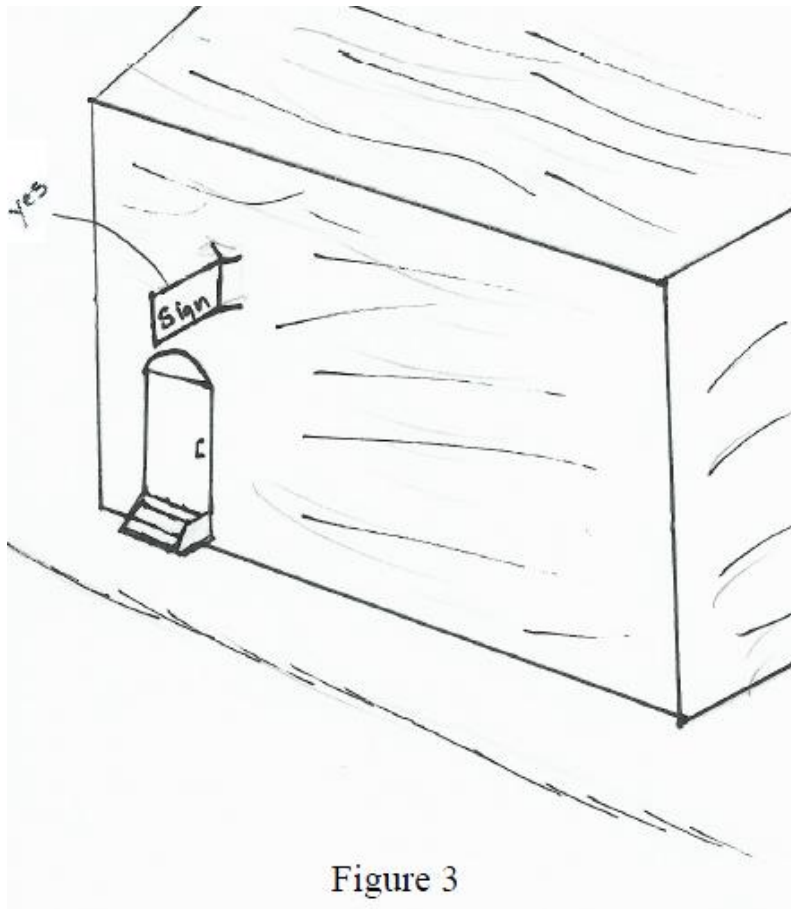


Figure 3

**16.10 Conditional Use.**

16.10.1 Signage requirements that apply to entire districts fail by their nature to account for all of the different conditions that exist within each district. Such requirements should not be conclusive and binding land use requirements subject to the inflexible requirements of Section 4469 of the Act. An Applicant may apply for a conditional use permit for additional sign square footage or height, not to exceed 125% of the sign square footage or height maximum for the district in which it falls. An Applicant may apply for a conditional use permit to have additional signs on the property, subject to the sign square footage requirements for the district in which the property is located.

**16.11 Measurement.**

16.11.1 The measurement of a sign's area shall be the area as measured by the product of its total height and total width, and shall be considered to include all lettering and background which is an element of the sign but not including any support framework or bracing which is incidental to the sign and which are not designed to attract attention. (Figures 5 & 6) If the applicant is using individual letters the spaces between letters shall be counted as part of the sign's square footage (Figure 4).

16.11.2 The area of one (1) side of a double faced sign shall be regarded as the total area of the sign as long as the content and size of the faces are the same. Each face shall be measured individually if the content is different.

16.11.3 The area of a multi-faced sign shall be measured as the total square footage divided by the number of sides if the contents and size of the faces are the same. Each face shall be measured individually if the content is different.

16.11.4 The height measurement for signage shall be from the average existing grade to the highest point of either the sign itself, or the sign posts, whichever was tallest. (Figures 5 & 6)

**FIGURE 4**



**16.12 Business Plaza.**

16.12.1 In instances where a business plaza is located on an individual property, the property shall be allowed to have a freestanding sign at the maximum size allowed for the district in which the property is located. In addition each individual business within the business plaza shall be allowed one building sign 16 square feet or smaller.



**16.13 Sign Requirements Table**

Zoning District	Building		Freestanding		Total Allowable Signage		Free-Standing Sign Height (in Feet)		Sign Setback (in feet)			Allowable Lighting	Hours of operation
	# of Allowed Signs	Total Square FT	# of Allowed Signs	Total Square FT	# of Allowed Signs	Total Square FT	Minimum	Maximum	Front	Side	Rear	Type	
<b>Rural Residential</b>	2	36	1	12	2	36	see below +	12	see below: *,**	25	25	External or unlit	One Hour After Closing or 10:00 PM, whichever comes first.
<b>Residential Neighborhood</b>	2	10	1	10	2	10	see below +	8	see below: *,**	25	25	External or unlit	One Hour After Closing or 10:00 PM, whichever comes first.
<b>Village Commercial</b>	2	60	1	20	2	60	see below +	12	see below: *,**	0 or 15	0 or 25	External or unlit. *Internally (with conditional use approval).	One Hour After Closing.
<b>Park</b>	1	4	1	5	1	5	see below +	8	see below: *,**	10	25	External or unlit	One Hour After Closing or 10:00 PM, whichever comes first.
<b>Industrial</b>	1	100	1	40	2	100	see below +	20	see below: *,**	25	25	External, Internal, or unlit	One Hour After Closing.
<b>Lyndon Corner Industrial</b>	1	100	1	40	2	100	see below +	20	see below: *,**	75	75	External, Internal, or unlit	One Hour After Closing or 10:00 PM, whichever comes first.
<b>Commercial</b>	1	100	1	40	2	100	see below +	20	see below: *,**	25	25	External, Internal, or unlit	One Hour After Closing.
<b>Main Street</b>	1	16	1	16	2	16	see below +	12	see below: *,**	15	25	External or unlit. *Internally (with conditional use approval).	One Hour After Closing or 10:00 PM, whichever comes first.
<b>Commercial/Industrial</b>	1	100	1	40	2	100	see below +	20	see below: *,**	25	25	External, Internal, or unlit	One Hour After Closing.
<b>Institutional Control</b>	2	10	1	10	2	10	see below +	8	see below: *,**	25	25	External or unlit	One Hour After Closing or 10:00 PM, whichever comes first.

\* Front Setback for signs: sign shall be out of the Right of Way limits of the road.

\*\* Where sidewalks exist, signs shall be out of the Right of Way limits of the road, and the sign must be setback at least four feet from the non-road side edge of the sidewalk

+ No sign shall be placed along any road or street in a manner which obstructs the line of sight for vehicular traffic.

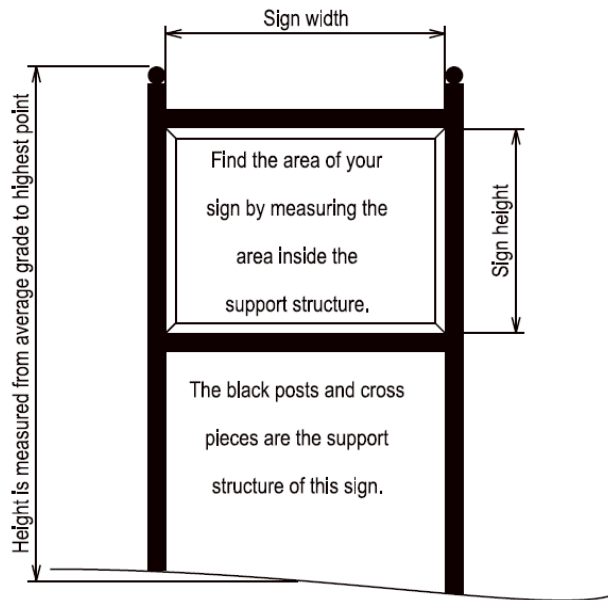


Figure 5

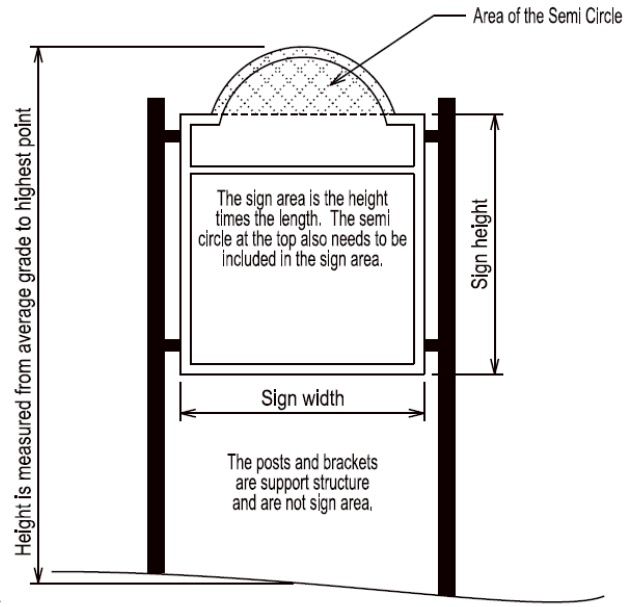


Figure 6

## ARTICLE XVII

### Definitions<sup>1</sup>

"Accessory Building or Use" means a building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of or structure on such lot.

"Accessory Dwelling Unit" is defined as an efficiency or one bedroom apartment 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

"Act" means Chapter 117 of Title 24, Vermont Statutes Annotated.

"Administrative Officer (AO)" means the administrative officer for the Town of Lyndon appointed pursuant to 24 V.S.A. § 4448.

"Affordable Housing" means either of the following:

(A) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.

(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

"Affordable Housing Development" means a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

"Agriculture" means the raising of crops, livestock raising and feeding, poultry raising and feeding, field crop farming and animal husbandry, greenhouse operations, and includes a roadside stand for the sale of agricultural products raised on the premises.

"Antenna" means a device for the transmission or reception of personal wireless service signals together with any appurtenances to an antenna.

"Appropriate Municipal Panel" is defined as a Planning Commission, the Zoning Board of Adjustment, Development Review Board, or a Legislative Body performing development review.

"Automobile Repair Facility" means any building or land area, or portion thereof, used for the servicing and repair of automobiles.

"Automobile Service Station" means a facility used or designed to be used for the sale of gasoline, diesel fuel and other petroleum fuel for the operation of motor vehicles, for the sale of lubricating oil, and for cleaning motor vehicles.

---

<sup>1</sup> Definitions in Section 11.11 shall supercede Article XVII definitions for the purposes of Flood Hazard Area regulation under Article XI.

"Bed and Breakfast" means a portion of a dwelling in which the operator of the bed and breakfast business permanently resides, made available to transients for overnight accommodations and a meal for those transients for compensation, where such use is secondary to the occupancy of the dwelling by the operator of the bed and breakfast business.

"Business Plaza" for the purposes of these Regulations, a business plaza consists of three or more directly adjoining retail and/or service establishments served by common curb cuts, access facilities, or parking areas.

"DRB" means the Development Review Board for the Town of Lyndon established pursuant to the Act.

"Community Care Home" means a structure, all or a portion of which is used to provide living accommodations, meal and personal care on a continual basis operated as a business for persons with physical, emotional or cognitive impairment.

"Convenience Store" means a retail store of less than 2,000 square feet offering for sale prepackaged food products, household items, newspapers, magazines, beer, wine and food for consumption off of the premises.

"Day Care Center" means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six children under the age of 16 outside of their homes for periods of less than 14 hours per day by a person other than a child's own parent, guardian or relative. "Day Care Center" also means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six adults with physical, emotional or cognitive impairment outside of the adult's home for periods of less than 24 hours per day by persons other than the adult's parent, guardian or relative. (Note: pursuant to Section 4412 (5) of V.S.A. 24, a state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of property.)

"Dwelling Units" means one room or rooms connected together, constituting a separate, independent housekeeping establishment which is physically separated from any other rooms or dwelling units in the same structure, and containing independent cooking, sleeping and bath facilities.

"Extraction of Earth Resources" means the removal or recovery, by any means, of soil, rock, minerals, or organic substances other than vegetation from water or land, on or beneath the surface thereof.

"Facility" ("facilities") means facilities for the provision of personal wireless services.

"Family" means (a) an individual, or two or more persons related by blood, marriage, adoption (including those placed in the home for adoption), and foster children, or (b) a group of not more than six persons who need not be related by blood, marriage, adoption, potential adoption or foster care, living together as a single housekeeping unit.

"Family Child Care Home or Facility". Is defined as a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

"Farm Structure" In accordance with 4413 (d) of the Act, any building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agriculture or accepted agricultural practices. This includes a silo or a farm stand for the sale of agricultural products principally produced on the farm, but specifically excludes other types of farm stands and dwellings for human habitation.

"Farm Employee Residence" means a single or two family dwelling occupied only by employees (and such employee's family if any) of the farm on which the residence is located.

"Forestry" means silviculture, and includes the harvesting of timber.

"Frontage" shall mean the width of a lot measured at the line where the lot adjoins the abutting public highway or public waters.

"Guest Home" has the same meaning as Bed and Breakfast except that a guest home does not serve meals.

"Home Occupation" is an occupation carried on for profit inside of a dwelling unit, which is customary in residential areas, does not use more than a minor portion of the occupant's dwelling, is carried on by the occupant of the dwelling, does not change the character of the area in which it is situated, is secondary to the use of the property as a dwelling by the residents thereof, and is not advertised by signs on the property..

"Interested Person" means any one of the following: (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case. (2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality. (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. (4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. (5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

"Land Development" means the division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation or landfill for a commercial purpose; and any change in the use of any structure or land or extension of the use of land. "Land Development" does not include the replacement of an existing sign with another sign of the same type construction and having the same or less area than the sign being replaced.

"Light Industry" means a facility not exceeding two thousand square feet in size, employing not more than ten persons (including the owner or operator of the Light Industry), and which emits no noise, odors or light which can be detected on surrounding land held by owners other than the owner of the land on which the Light Industry is located.

"Lot" means a parcel of land occupied or to be occupied by a building or buildings, a mine, an excavation, or a landfill. A lot shall be of sufficient size to meet the minimum requirements of this bylaw. A lot shall have frontage on a public highway, or access thereto by a legal perpetual right-of-way not less than fifty feet in width. A lot may consist of (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; and (d) a parcel of land described by metes and bounds.

"Manufacturing" means the processing, treatment and/or conversion of raw, semi-finished or finished materials into a different, more or less refined form or state, including the physical assembly, from standardized parts, of a distinct or finished product that differs from its individual components. This definition does not include the processing of agricultural goods raised on the premises, which falls under the definition of agriculture.

"Medical Clinic" means any establishment where human patients are examined and treated by doctors or dentists, but are not hospitalized overnight.

"Mobile Home" means a structure less than 20 feet wide designed and built to be a moveable family dwelling unit.

"Mobile Home Park" means land upon which two or more mobile homes are parked and occupied for living purposes.

"Multi-Family Dwelling" means a residential building designed for and occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units.

"Neighborhood Facility" means a building or a portion of a building used for a commercial facility selling food for consumption off the premises, household goods, beer and wine, newspapers, magazines, patent medicines and sundries intended principally to serve the Residential Neighborhood in which it is located, and not exceeding 600 square feet in area.

"Office" means a structure, or a portion thereof, in which administrative, clerical or professional services are performed.

"Outdoor Recreation" means the organized or unorganized use of fields, trails, bodies of water, or other land for recreational purposes and includes swimming pools, tennis courts, skating rinks, playground equipment, horseback riding trails, storage and accessory buildings, and similar facilities.

"Person" means an individual, a corporation, a partnership, an association, or any other incorporated or unincorporated organization or group.

"Personal Service" means a business providing services of a personal nature including barber, hairdresser, beauty parlor, shoe repair, laundromat, dry cleaner, photography studio, and other similar business.

"Personal Wireless Services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as those terms are defined in 47 U.S.C. § 332.

"Planned Unit Development" means one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards in accordance with 24 V.S.A. § 4303.

"Planning Commission" means the Planning Commission of the Town of Lyndon established pursuant to the Act.

"Private Club" means an establishment operated on a not-for-profit basis for social, recreation or education purposes, but open only to members and members' guests, and not to the general public.

"Public Building" means a structure occupied by a federal, state or local government agency and used, in part or in whole, by members of the public.

"Retail Service" means the offering of services at retail to the general public.

"Retail Store" means a building, or portion thereof, the principal activity of which is the offering of goods for sale to the general public at retail.

"School" means a facility used for education, instruction or research in any branch of knowledge including, but not limited to, private and public elementary and secondary schools, colleges, universities, business schools, trade schools, schools of dance, and schools of martial arts.

"Sign" means any assemblage of materials placed for the purpose of informing, or attracting the attention of, persons not on the premises on which the sign is located, for a commercial purpose.

"Single Family Dwelling" means a detached residential dwelling unit designed for and occupied by one family.

"Special Flood Hazard Area" is defined as the floodplain within a community subject to a 1% or greater chance of flooding within a given year.

"Street" means any public thoroughfare affording access to property.

"Structure" means an assembly of materials with a fixed location on the ground, or attached to something having a fixed location on the ground, intended for occupancy or use. This term includes, but is not limited to, a building, mobile home, trailer, tractor trailer, billboard or sign..

"Suitable Pad" means a solid foundation that will not heave in the winter. For mobile home installation, a suitable pad could include a concrete slab, gravel, asphalt, piles, frostwalls, or any other stable platform.

"Tower" means any structure on which one or more antennas are to be mounted.

"Transient Lodging" means a guest home, hotel, motel, or other structure providing overnight accommodations to the traveling public.

"Travel Trailer" means a motorized or non-motorized vehicle on wheels used for leisure time, camping, boating and traveling.

"Truck Terminal" means a facility used for the purpose of loading or unloading materials or goods from trucks, for the primary purpose of transferring materials and goods, either for distribution or changing from one transportation carrier to another. The definition of "truck terminal" does not include the facility of a shipper of origin or receiver of goods at the final destination.

"Two Family Dwelling" means a detached residential building containing two dwelling units, designed for occupancy and occupied by not more than two families.

"Use" means the specific purpose for which a structure or land is or may be occupied, maintained, designated or intended. The term "Permitted Use" or its equivalent does not include any nonconforming use or nonconforming structure.

"Wetland" means an area inundated by surface or ground water with a frequency to support aquatic vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction.