

# TOWN OF PROCTOR

## ZONING REGULATIONS



Adopted March 13, 2017

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# **ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE, AND SCOPE**

## **Section 101 - Enactment**

In accordance with the Vermont Planning and Development Act, 24 VSA 117, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for the Town of Proctor which shall be known and cited as the "Town of Proctor Zoning Regulations".

## **Section 102 - Objectives and Intent**

The objective of the Zoning Regulations is to establish standards and policies concerning development of land that further the goals of the Proctor Town Plan.

It is intended that standards and policies established by the Zoning Regulations promote the general health, welfare and quality of life of the residents; maintain the desirable features of the Town; protect and enhance the value of property; prevent overcrowding of land and secure adequate provisions concerning safety, and transportation, and other services such as water, sewage, schools, parks and other public requirements.

Careful consideration has been given, among other things, to the character of each district, with respect to its suitability for the particular uses indicated to insure the most appropriate use of the land and its context throughout the Town.

The Zoning Regulations do not affect the use of land or buildings in existence at the time of its adoption, except through change of status of non-conforming uses as stipulated herein. Nothing contained herein shall require any change in plans or construction for which a building permit has been issued prior to the date of adoption of these Regulations, as amended.

## **Section 103 - Purpose and Scope**

The purpose of the Zoning Regulations is for the promotion of the health, safety, or general welfare of the community by establishing Regulations and conditions governing the erection and use of buildings, other structures and use of land and natural resources.

The scope of the Regulations includes primarily the establishment and designation of seven districts in the Town of Proctor designated as Agricultural, Commercial, Forest, Forest/Residential, Industrial, Recreational, and Residential. The Regulations also include a Flood Hazard overlay. The use regulations applying to each class of district are stipulated, as well as the general regulations applying to all districts. The methods of dealing with non-conforming uses are outlined. The administration of the Regulations and the duties of the Administrative Officer are defined in detail.

### **Section 104 – Reviews**

Development review functions are carried out by the Zoning Administrator (ZA) and the appropriate municipal panel (AMP). The two AMPs in Proctor are the Planning Commission and Zoning Board of Adjustment

| <b><u>Planning Commission</u></b> | <b><u>Zoning Administrator</u></b>        | <b><u>Board of Adjustment</u></b>   |
|-----------------------------------|---|-------------------------------------|
| Site Plan Review                  | Single family or two family dwellings     | Appeals from the decision of the ZA |
| PRD Review                        | Residential additions/decks/storage sheds | Variances                           |
| Waivers                           | All other Permitted Uses                  | Conditional Uses                    |
| Access (to non-frontage lots)     |   |                                     |



## **ARTICLE II: ESTABLISHMENT OF ZONING DISTRICT AND ZONING MAP**

### **Section 201 - Establishment of Zoning Districts**

The Town of Proctor hereby establishes the following Zoning Districts: Agricultural, Commercial, Forest, Forest/Residential, Industrial, Recreational, and Residential.

See Section 304 for dimensional requirement of each district.

See Section 305 for uses permitted in each district.

#### **Agricultural District**

*Description & Purpose:* Proctor's Agricultural District essentially mirrors the town's flood hazard area along the banks of the Otter Creek. Federal, state, and local regulations severely restrict development in these areas due to safety and insurance reasons. Future development in these areas should permit all types of agricultural uses and prohibit all other land development except low density residential development.

#### **Commercial District**

*Description & Purpose:* Proctor's small commercial district runs through the village center, along Main and Market Streets. The scale of any future commercial development should be compatible with the rural nature of Proctor and the adjacent commercial and residential structures.

#### **Ag-Commercial District**

*Description & Purpose:* Proctor's small ag-commercial district runs along South St, and allows all agricultural and residential uses and most commercial uses.

#### **Forest District**

*Description & Purpose:* Proctor's Forest District comprises most of the town's eastern and western borders. Steep slopes and rocky terrain in these areas severely limit most forms of development. This district shall permit commercial forestry and related uses, and prohibit all other land development.

#### **Forest / Residential District**

*Description & Purpose:* This district is intended to provide land area for low-density residential development, farming, forestry, recreation and other rural land uses. Growth should be managed and consistent with the rural character of the area and site conditions. Despite the limitations on clustered development in areas not served by municipal water or sewer, conservation of open spaces and natural resources should be a high priority to maintain Proctor's rural atmosphere.

### Industrial District

*Description & Purpose:* Proctor's Industrial District includes land occupied by the former manufacturing operations associated with the Vermont Marble Company. Future development in these areas should consist of low impact commercial / industrial activities.

### Recreation District

*Description & Purpose:* The recreation district is made up of the following lands: Olympus Pool and Skating Rink, Volunteer Ball Fields, Beaver Pond Waterfalls over Otter Creek, and Main Street Park. Permitted uses in these areas include public outdoor recreation, wildlife refuges, and natural areas.

### Residential

*Description & Purpose:* The residential district in Proctor includes the village and a series of streets lined with mostly historic homes form a radial pattern in each direction off the village center, mostly served by the municipal water and sewer system. The residential district's compact development pattern and municipal infrastructure make it the most suitable area for future development where space is available.

### Flood Hazard Overlay District

*Description & Purpose:* The Flood Hazard Overlay District includes all lands in the Town of Proctor identified as areas of special flood hazard on the National Flood Insurance Program maps and replicated on the Flood Hazard Area Map prepared by the Rutland Regional Planning Commission, which are hereby adopted by reference and declared to be part of these regulations. The overlay district is intended to protect the health, safety, and welfare of residents and the community in these flood prone areas. 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.

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.

### River Corridor Overlay District

*Description & Purpose:* The River Corridor Overlay District includes all lands in the Town of Proctor identified as areas of riparian erosion hazard on the State of Vermont Agency of Natural Resources maps, which are hereby adopted by reference and declared to be part of these regulations. The

overlay district is intended to protect the health, safety, and welfare of residents and the community in these riverine erosion prone areas. 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.

### **Section 202 - Zoning Map**

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map. The Official Zoning Map is hereby made a part of these Regulations, together with all future amendments. No changes of any nature shall be made in the Official Zoning Map except in conformity with Section 1603 of this Regulation.

Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

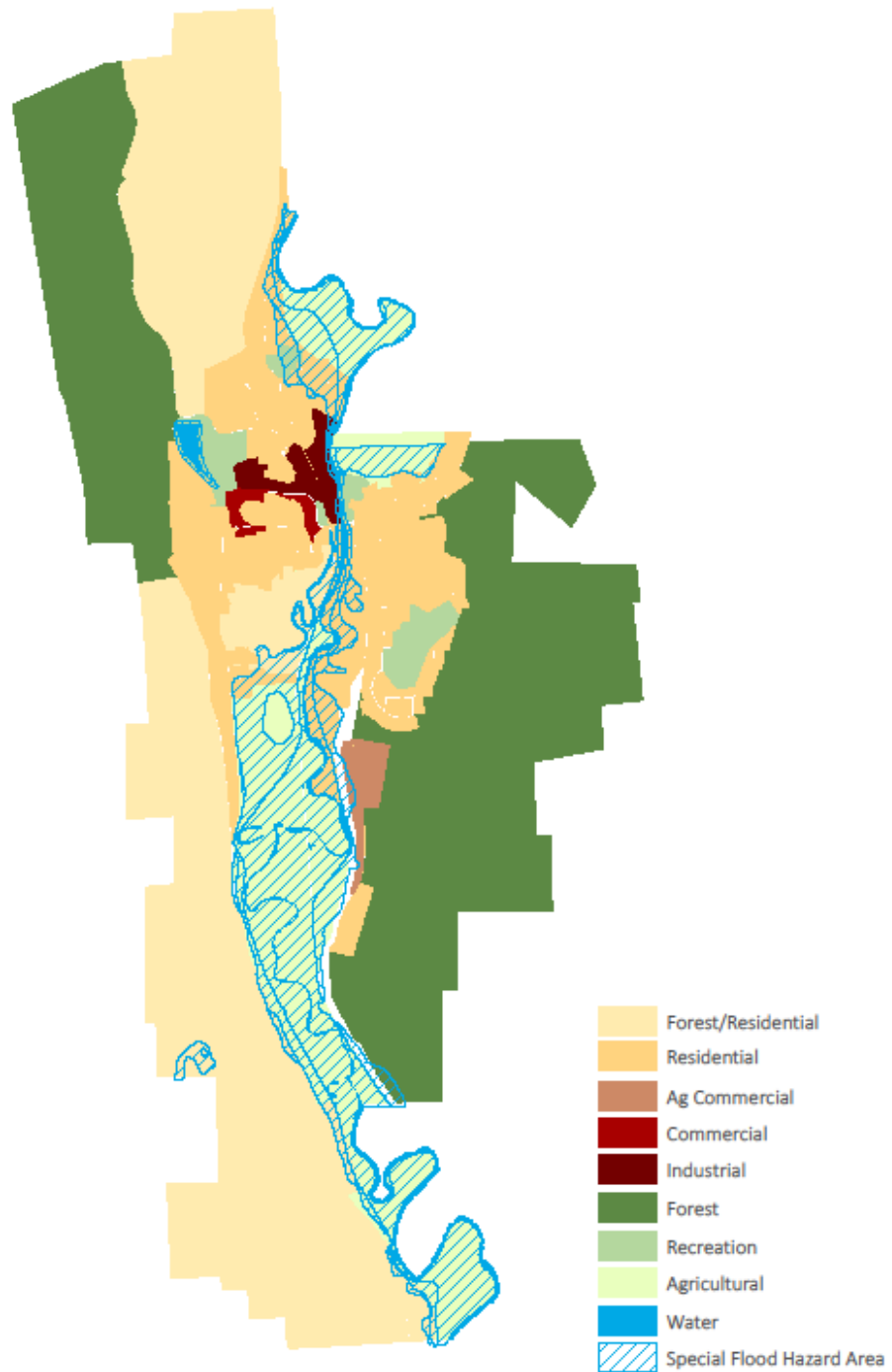
Where available, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study (i.e., Zones A1-A30, AE and AH) and accompanying maps shall be used to administer the provisions of these regulations. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e., Zone A) base flood elevation and floodway information available from State or Federal agencies or other sources shall be obtained and reasonably utilized to administer the provisions of these regulations.

### **Section 203 - Interpretation of Zoning District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- C. Boundaries indicated as following shorelines shall be construed as the low mean water level.
- D. Boundaries indicated as parallel to or extensions of features in A through C above shall be so construed.
- E. Where circumstances are not covered by A through D above, the Board of Adjustment shall interpret the district boundaries in consultation with the Planning Commission.
- F. The Administrative Officer shall determine the relationship of a proposed development to the area of special flood hazard, using, where available (i.e., Zone A), the base flood elevations and

floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps. Where interpretation is needed as to the exact location of the boundary, the Board of Adjustment shall, upon appeal, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to present his/her case to the Board of Adjustment and to submit his/her own technical evidence.



**Section 204 - Lot Size, Setbacks, Yards**

The following requirements apply to all permissible uses in Section 305, Table of Uses, unless otherwise stated.

| DISTRICT                  | MINIMUM LOT SIZE                               | SETBACKS (Feet) |          |          | MINIMUM LOT FRONTAGE / LOT DEPTH     | MAXIMUM BLD. / STRUCTURE HEIGHT <sup>(1)</sup> |
|---------------------------|--|-----------------|----------|----------|--------------------------------------|--|
|                           |  | Front           | Side     | Rear     |                                      |  |
| <b>AGRICULTURAL</b>       | 5 acres  | 75              | 50       | 75       | 300 ft. /300 ft.                     | 2 stories or 25 feet, whichever is less        |
| <b>COMMERCIAL</b>         | 20,000 sq.ft.                                  | 15              | 25*      | 25*      | 100 ft./150 ft.                      | 2 stories or 40 ft., whichever is less         |
| <b>AG-COMMERCIAL</b>      | 2 acres  | 75              | 50       | 75       | 200 ft /200 ft                       |  |
| <b>FOREST</b>             | 25 acres                                       | 150             | 150      | 150      |                                      | 3 stories or 35 feet, whichever is less        |
| <b>FOREST/RESIDENTIAL</b> | 2 acres  | 50              | 50       | 50       |                                      | 3 stories or 35 feet, whichever is less        |
| <b>INDUSTRIAL</b>         | 120,000 sq.ft.                                 | 50              | 25       | 50       | 300 ft. /300 ft.                     | 35 ft.   |
| <b>RECREATIONAL</b>       | 80,000 sq.ft.                                  | 40              | 40       | 40       | 200 ft.                              | 20 ft.   |
| <b>RESIDENTIAL</b>        | Res Use- 20,000 sq.ft.<br>Non-Res Use- 2 acres | 25<br>25        | 25<br>50 | 40<br>50 | 100 ft./ 150 ft.<br>200 ft./ 250 ft. | 3 stories or 35 feet                           |
| <b>FLOOD HAZARD</b>       |  |                 |          |          |                                      |  |

\* 100 ft. abutting residential districts

The planning commission may grant waivers to reduce Setbacks. The planning commission may grant a waiver upon holding a hearing. Fee for a waiver will be same as fee for a site plan review.

**Section 205 - Table of Uses**

A person shall not use any land or structure within the Town except in conformance with the use provisions of the Table of Uses. For each district, permissible uses are given one of five designations:

**Exempt (E)** uses and structures are permissible without obtaining any Town permit.

**Notified (N)** structures are permissible without obtaining any Town permit *but* require a written notification to the Administrative Officer of intent to build.

**Permitted (P)** uses and structures are permissible upon issuance of a zoning permit.

**Site Plan (SP)** uses and structures are permissible upon issuance of a zoning permit after a site plan review has been completed by the Planning Commission (Article VI).

**Conditional (C)** uses and structures are permissible only upon issuance of a conditional use permit by the Zoning Board of Adjustment (Article V).

Some of the above uses may require a STATE PERMIT. *ANY USES NOT SPECIFICALLY PERMITTED ARE PROHIBITED*

| <b>USES</b>                                   | <b>AG</b> | <b>COMM</b> | <b>AG/COMM</b> | <b>FOREST</b> | <b>FOREST/<br/>RES</b> | <b>INDUST</b> | <b>REC</b> | <b>RES</b> | <b>See Also</b> |
|---|-----------|-------------|----------------|---------------|------------------------|---------------|------------|------------|-----------------|
| Required Agriculture and Forestry             | E         | E           | E              | E             | E                      | E             | E          | E          | Section 1002    |
| Other exempted uses and structures            | E         | E           | E              | E             | E                      | E             | E          | E          | Section 1002    |
| Accessory Dwelling                            | P         | P           | P              |               | P                      | P             |            | P          | Section 422     |
| Accessory Dwelling, new structure or addition | P         | P           | P              |               | P                      | P             |            | P          | Section 422     |
| Accessory use or building                     | P         | P           | C              | P             | P                      | P             |            | P          | Section 421     |
| Agricultural Structures                       | N         | N           | C              | N             | N                      | N             | N          | N          | Section 1002    |
| Auto Service Station w/out Gas Service        |           | C           | C              |               |                        | C             |            |            | Section 434     |
| Banks   |           | SP          |                |               |                        | SP            |            |            |                 |
| Barber/Beauty Shop                            |           | SP          | SP             |               | C                      | SP            |            | C          |                 |
| Bed and Breakfast Lodging                     | SP        | SP          | SP             | SP            | SP                     |               |            | SP         |                 |
| Camp  | P         |             |                | P             | P                      |               |            |            |                 |
| Car Wash                                      |           |             |                |               |                        | C             |            |            |                 |
| Cemetery                                      | SP        |             |                | C             |                        |               |            |            |                 |
| Churches and other places of worship          | P         | P           | P              | P             | P                      | P             | P          | P          | Section 604     |

| USES  | AG | COMM | AG/COMM | FOREST | FOREST/<br>RES | INDUST | REC | RES | See Also          |
|---|----|------|---------|--------|----------------|--------|-----|-----|-------------------|
| Club or Lodge, Private  |    | SP   |         |        |                |        |     |     |                   |
| Community Center  | C  | SP   |         |        |                | SP     | SP  |     |                   |
| Contractor's Yards  |    |      |         |        |                | SP     |     |     |                   |
| Cottage Industry  | C  | C    | C       | C      | C              | C      | C   | C   | Section 504       |
| Dwelling Unit- One Family   | P  | P    | P       | P      | P              | P      |     | P   |                   |
| Two-Family  | P  | P    | P       | P      | P              | P      |     | P   |                   |
| Multi-Family  | C  | SP   | C       |        | C              | SP     |     | C   |                   |
| Freight and Trucking Terminal   |    |      |         |        |                | SP     |     |     |                   |
| Family Child Care (6 or fewer full time)  | P  | P    | P       |        | P              | P      |     | P   | Section 429       |
| Family Child Care (6 or fewer full time & 4 part time)                          | SP | SP   | P       |        | SP             | SP     |     | SP  | Section 429       |
| Family Child Care (more than 6 full time and 4 part time) & Day Care Facilities |    | SP   |         |        | SP             | SP     |     | C   |                   |
| Gas Station   |    | C    |         |        |                | C      |     |     | Section 434       |
| Home Occupation   | P  | P    | P       | P      | P              | P      | P   | P   | Section 404       |
| Hotel   |    | SP   |         |        |                | SP     |     |     |                   |
| Industry, Light   |    | SP   | C       |        |                | SP     |     |     |                   |
| Industrial Processes and Service  |    |      |         |        |                | C      |     |     |                   |
| Laboratories; Medical, Dental, other  |    | SP   |         |        |                | SP     |     | C   |                   |
| Machine Shop  |    |      | C       |        |                | SP     |     |     |                   |
| Manufacturing, Enclosed   |    |      | C       |        |                | C      |     |     |                   |
| Mobile Home Parks   | C  |      |         |        | C              | C      |     | C   | Section 431 & 432 |
| Mortuary  |    | SP   |         |        |                | SP     |     |     |                   |
| Motel   |    | SP   |         |        |                | SP     |     |     |                   |
| Motor Vehicle Sales and Service: New and Used                                   | C  |      | C       |        |                | SP     |     |     |                   |
| Government Building   | SP | SP   |         | SP     | SP             | SP     | SP  | SP  | Section 604       |
| Office  |    | SP   | SP      |        |                | SP     |     |     |                   |
| Park  | SP | SP   | SP      | SP     | SP             | SP     | SP  | SP  |                   |

| USES  | AG | COMM | AG/COMM | FOREST | FOREST/<br>RES | INDUST | REC | RES | See Also    |
|---|----|------|---------|--------|----------------|--------|-----|-----|-------------|
| Public Works Facility   | SP | SP   | SP      | SP     | SP             | SP     | SP  | SP  |             |
| Quarry  | C  |      |         |        | C              | SP     |     |     |             |
| Recreation Facility- Public<br>Indoor/Outdoor   | SP | SP   | C       | SP     | SP             | SP     | SP  | SP  |             |
| Recycling Center  |    |      |         |        |                | C      |     |     |             |
| Reservoir   | SP |      |         | SP     |                |        | SP  |     |             |
| Residential Care / Group Home<br>serving 8 or less  | P  | P    | P       |        | P              | P      |     | P   | Section 430 |
| Residential Care / Group Home<br>serving over 8   |    | SP   | P       |        | SP             | SP     |     | C   | Section 419 |
| Restaurant, Bar   |    | SP   |         |        |                | SP     |     |     |             |
| Retail  |    | SP   |         |        |                | SP     |     |     |             |
| Sand, Gravel, Soil Extraction   | C  |      |         | C      | C              | C      |     |     | Section 436 |
| School  | SP | SP   |         | SP     | SP             | SP     |     | SP  | Section 604 |
| Special Public Uses (Regional Solid &<br>Hazardous Waste Facilities, Hospitals<br>per 24 VSA 4413(a)) |    |      |         |        |                | C      |     |     | Section 604 |
| Storage, Enclosed   |    |      |         |        |                | SP     |     |     |             |
| Storage, Open   | C  |      |         |        |                | C      |     |     |             |
| Swimming Pool   | P  | P    | P       | P      | P              | P      | P   | P   | Section 413 |
| Temporary Structures  | P  | P    | P       | P      | P              | P      | P   | P   |             |
| Theaters  |    | SP   |         |        |                | SP     | SP  |     |             |
| Utilities (excluding power generation &<br>transmission)  | C  | C    | C       | C      | C              | C      | C   | C   |             |
| Veterinarians:  |    |      |         |        |                |        |     |     |             |
| With Boarding   | SP | SP   | C       |        | SP             | SP     |     |     |             |
| Without Boarding  | SP | SP   | C       |        | SP             | SP     |     |     |             |
| Warehouse   |    | SP   |         |        |                | SP     |     |     |             |
| Wildlife Refuge   | SP |      | Sp      | SP     | SP             |        | SP  |     |             |
| Wholesale Distributor, Use  |    |      |         |        |                | SP     |     |     |             |







## **ARTICLE III: GENERAL REGULATIONS**

### **Section 301 - Compliance with Regulations**

No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided for in this Regulation.

No building or buildings shall occupy in the aggregate a greater percentage of lot area than set forth unless otherwise provided for in this Regulation.

### **Section 302 - Existing Small Lots**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.

If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

### **Section 303 - Required Frontage on, or Access to, Public Roads**

No land development shall be permitted on lots that do not have frontage on a public road or access to such a road by permanent easement or right-of-way of record at least twenty (20) feet in width for one lot or fifty (50) feet for two or more lots. A permit for this frontage shall be granted by the Zoning Administrator only after receipt of a written application that shall include a written agreement between the landowner and applicant. The design of access to Town roads must be approved by the Selectboard or its designee.

### **Section 304 - Home Occupations**

Home occupations are permitted in all districts in which residences are permitted. Nothing in this Regulation may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas, which does not affect the residential character of the neighborhood, and is incidental and secondary to the residential use of the dwelling.

It shall not occupy in total area (dwelling and accessory structures) more than 50% or 500 square feet (whichever is greater) of the floor area of the dwelling.

The occupation shall not be conducted by more than one (1) employee, in addition to residents of the building.

The occupation must be carried on wholly within the building or structure.

No offensive noise, vibrations, smoke, dust, heat, light, odors, or traffic are produced.

A sign is permitted and shall not exceed four (4) square feet. All signs shall be unlit.

Permitted Home Occupations: The following are examples of permitted home occupations, provided that they comply with the provisions of Section 404:

1. Dressmaking, sewing and tailoring
2. Painting, sculpting, writing and other arts
3. Telephone answering and sales
4. Home crafts
5. Home cooking
6. Computer programming

Prohibited home occupations: The following are prohibited as home occupations:

1. Machine repair shops
2. Restaurants
3. Automobile and manufactured repair or paint shops

Other home businesses: Any home business that is neither a specifically permitted nor prohibited home occupation under this section shall be considered a cottage industry and shall comply with the provisions of Section 504. (Note: this provision shall not apply to uses considered as single family uses of property, as defined in 24 VSA 4412.)

Any approval for a home occupation is granted to the applicant for the length of time that the applicant occupies the dwelling. Approval shall terminate upon relocation by the applicant and shall neither remain with the subsequent applicants of the dwelling nor transfer to a new location with the original applicant.

### **Section 305 – Handicapped Access Ramps**

Handicapped access ramps shall be considered permitted uses. Ramps may extend into the required setback of the district upon written request to the Administrative Officer.

### **Section 306 - Yard Setbacks**

No new building including porches, verandas and overhanging eaves shall extend nearer to the street line than the average setback distance of the nearest building on the same street within three hundred (300) feet in each direction.

### **Section 307 - Equal Treatment of Housing**

Nothing herein shall have the effect of excluding mobile and manufactured homes, modular housing, or other forms of prefabricated housing, from the town, except upon the same terms and conditions as conventional housing is excluded.

Nothing herein shall have the effect of excluding from the town housing to meet the needs of the population as determined by the Proctor Town Plan.

### **Section 308 - Buildings on Lots**

In all districts only one principal building shall be placed on a lot. This requirement shall not apply to working farms where one additional residential structure is permitted for use by a farm employee and farm structures are also permitted, or to planned residential developments.

### **Section 309 - Lots in More Than One Zoning District**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

### **Section 310 - Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located. The provisions of this section shall not apply when part of a lot is taken or acquired for a public purpose.

### **Section 311 - More Than One Use on a Lot or of a Structure**

Nothing in these Regulations shall prevent two separate uses from occupying a single lot (meeting minimum lot size) or structure, provided that each use complies with all other applicable provisions of these Regulations.

### **Section 312 - Fences**

- A. No fence shall interfere with traffic, visibility, or sightlines<sup>1</sup>.
- B. In any residential district, fences may be built in front, side and rear yards provided they do not exceed six (6) feet in height and that it follows the topography of the property. The fence must be maintained in a proper state of repair with the finished side of the fence facing the abutting properties. Fences must be built completely within the owner's property boundary.
- C. Fences built to meet the conditions stated in A and B do not require a permit.

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<sup>1</sup> Sightlines: See 326, Obstruction of Vision

### **Section 313 - Swimming Pools**

A private inground or aboveground swimming pool shall be installed and maintained in a manner to meet all State Health Code Standards, shall be fenced or otherwise protected to prohibit unauthorized or accidental entry, shall not constitute a hazardous or nuisance situation, and shall meet all applicable setback requirements.

### **Section 315 - Temporary Structures and Housing**

Temporary permits may be issued by the Zoning Administrative Officer for a period not exceeding one (1) year, for temporary structure or housing unit incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year.

Permits may be issued for temporary tents and garages, when said tents and garages will inhabit a space for a cumulative period exceeding (1) one year. The temporary tent or garage must meet setback requirements, and cannot be more forward than the primary structure.

### **Section 316 - Destroyed or Demolished Structures**

Within ninety (90) days after a permanent or temporary building or structure has been destroyed or demolished, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

### **Section 317 - Trailers/ Recreational Vehicle**

Parking a camping trailer, travel trailer, pickup coach or motor home on any public or private property, is permitted only in accordance with the following regulations:

- It is not used as a permanent living quarters;
- If more than ten (10) feet in length it is parked so as to comply with the setback requirements of the district; and
- It is not occupied for more than 120 days in any 12 month period.

### **Section 318 - Height of Structures**

No structure shall exceed a height applicable to the district. No radio or television tower, satellite television reception equipment, water or cooling tower, flammable liquid or gas holder, solar collectors, wind turbines, chimney or similar structure in excess of thirty-five (35) feet in height may be erected unless approved by the Planning Commission after a public hearing. In determining whether to approve a height exception, the Planning Commission shall consider the following:

Whether the town's fire department is reasonably capable of extinguishing a fire in the structure above the 35 foot height and preventing it from spreading to neighboring buildings or structures; and

Whether the structure above the 35-foot height will have an undue adverse impact on the scenic beauty or aesthetics of the area.

### **Section 319 - Approval of Plats**

No proposed plat of a new subdivision or re-subdivision shall be approved unless the lots within such plat equal or exceed the dimensional requirements set forth in the districts in which the lots are located and also have frontage.

### **Section 320 - Site Development**

Any site development including bringing in fill or removing earth which has the effect of making a parcel developable or buildable where it was not previously shall be done only after the issuance of a zoning permit.

### **Section 321 - Accessory Structures**

Outbuildings, garages, carports, storage sheds, greenhouses, private swimming pools, and satellite television reception equipment and all similar accessory structures, unless attached to the main building on the lot, shall independently meet the minimum yard and height requirements set forth in these regulations, except not more than one accessory use structure, other than satellite television reception equipment, may not be located closer than ten (10) feet from an existing property line other than the front lot line.

### **Section 322 – Accessory Dwelling Units**

An accessory dwelling unit that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

The property has sufficient wastewater capacity.

The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval (Article V) when one or more of the following is involved:

A new accessory structure, constructed after the enactment of these bylaws,

An increase in the height or floor area of the existing dwelling, or

An increase in the dimensions of the parking areas.

## **Section 323 - Off Street Parking Requirements**

For every building hereafter erected, placed, extended or changed in use, there shall be off street parking facilities or vehicular storage at least as set forth below. For any use that is not listed, the Planning Commission shall require spaces as it deems necessary based on standards from other accepted sources, including local parking counts.

Where the Planning Commission determines that unique usage or special conditions exist, it may require off-street parking spaces and loading areas greater than the requirements of this section.

The Planning Commission may reduce the requirements of this section for number of off-street and loading areas, to as low as 50% of the normal requirement, if it determines that overlapping use of parking spaces or other unique characteristics cause the requirement to be unnecessarily stringent.

Minimum parking requirements:

1. *Residential Uses:* One and two family residential dwellings shall have on the same lot or adjacent thereto, parking spaces equal to two times the number of dwelling units in each structure. Professional residence-offices shall have two parking spaces, plus one additional space for every two hundred (200) square feet of office space. For multiple family dwellings, provision shall be made on the same lot of the principle use or a lot adjacent thereto under the same ownership, three (3) parking spaces for every two (2) dwelling units.
2. *Public Assembly Places:* As specified by the Planning Commission during a site plan review .
3. *Commercial Uses:* As specified by the Planning Commission during a site plan review.  
*Industrial Uses:* For every industrial use, provision shall be made on the same lot as the principle use or a lot adjacent thereto under the same ownership, one parking space for each employee on the premises during the maximum shift.
4. *Recreational Uses:* As specified by the Planning Commission.

Additional requirements:

- Parking spaces for handicapped persons shall be provided for all commercial uses. The size, number and location of spaces shall comply with the ADA Accessibility Guidelines.
- The Planning Commission may require additional off street parking and loading spaces for any use if they find that the minimum spaces are not sufficient.
- A required driveway shall be at least twenty (20) feet, but not more than forty (40) feet in width, except for one and two family use. All driveways are to be located at least one hundred (100) feet from a street line intersection for all uses except one and two-family residential uses.
- Driveways serving multi-family residential uses and all non-residential uses shall be so arranged that vehicles are not required to back onto a public road on entering or leaving.



- All open off-street parking areas containing more than four (4) parking spaces and all off-street loading areas shall be screened on each side adjoining or fronting on any property in a residential district, by a wall, fence, or densely planted hedge not less than three (3) feet nor more than five (5) feet in height.
- Parking space shall be located on the same lot as the principal use except as otherwise provided.
- Parking spaces for any number of separate uses may be combined in one parking lot.
- Parking space, access drives, entrances, and exits as required by this section for business buildings, for multi-family dwellings and for dwelling groups shall be adequately paved with macadam, bituminous or concrete and designed so as not to drain onto a public highway or adjacent properties; multi-family dwellings and dwelling groups may use crushed rock as an alternative.
- Parking on or obstructing the use of a sidewalk by a motorized vehicle is prohibited.

### **Section 324 - Commercial Loading Areas**

Every building or structure hereafter erected and occupied for business, trade or industry shall be provided with adequate space for loading and unloading off of the public right-of-way. This space shall not be used to obstruct or interfere with the free use of any road or adjoining property. Loading facilities shall be located in the rear or side yards, unless otherwise permitted, and shall not encroach on required buffer areas.

### **Section 325 - Pooled or Group Parking Facilities**

A. For nonresidential uses, two (2) or more distinct and separate establishments may decide to pool or group their parking facilities subject to these conditions:

1. The number of curb cuts will be reduced;
2. The spaces are located behind buildings and/or well screened from the road and, where necessary, other properties;
3. Vehicular circulation is improved; and
4. The appearance of the particular area is enhanced.

B. The minimum number of parking spaces required for such pooled or grouped parking facilities shall equal ten percent (10%) fewer parking spaces than the amount otherwise required.

C. Evidence of a pooling agreement.

### **Section 326 - Obstruction of Vision**

In all districts, on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five (25) feet away from the intersection, there shall be no obstruction to vision between the height of three (3) feet and ten (10) feet above the grade of each street. Furthermore there shall be no obstruction which impairs the vision of motor vehicle operators entering or traveling upon a public street.

### **Section 327 - Landscaping**

Landscaping required in all districts under these regulations to be installed in the front, rear and side yards shall take the form of shade trees, deciduous shrubs, evergreens, well kept grassed areas and ground cover. Tree species that may cause future shading of the most southerly facing wall and/or roof of adjacent buildings or plantings which will detrimentally shade an installed solar energy system should not be permitted.

All landscaping shall be maintained in a healthy growing condition with ground cover or grassed areas.

Following are the minimum landscaping requirements:

- A minimum of two (2) trees shall be planted in the front yard for each one hundred (100) feet of lot frontage, provided that no tree shall be planted nearer than five (5) feet to any lines.
- Where any land use in a non-residential district abuts land in any residential district, a strip of land at least thirty (30) feet in width shall be maintained as a landscape area in the front, side and rear yards adjoining the residential district.
- Where any non-residential land use in a residential district abuts any residential use, a strip of land at least twenty (20) feet in width shall be maintained as a landscaped area in front, side, and rear yards which adjoin these residential uses.
- In an industrial district, each industrial lot or use shall have a strip of land at least twenty (20) feet in width in the front yard and at least ten (10) feet in width in the rear and side yards which shall be maintained as a landscaped area.

### **Section 328 - Screened Service Areas**

In any district, all areas designated or used as service areas for any building or land use, other than one-family and two-family dwellings shall be screened from view with either a wall, a solid fence or a fence and evergreens to a height that adequately conceals the view of the service area (a height of at least five (5) feet) on all sides where the adjacent land is in a residential district or residential use.

### **Section 329 - Energy**

Pursuant to 24 VSA 4412 the height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high on sloped roofs, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. For the purpose of this subdivision, a sloped roof means a roof having a slope of more than five degrees.

The use of solar energy systems, whether as a part of a building or incidental to a building, are permitted accessory uses in all districts.

Certain architectural features needed for the operation of active and passive solar energy systems, including but not limited to overhangs, detached solar collectors, reflectors and piping may be permitted by the Zoning Administrator to project into the required yard setback if conformance

with yard setback requirements will cause undue expense or unusual difficulties and such projections do not adversely affect the character of the neighborhood.

Pursuant to 24 VSA section 4414 (15), ground mounted solar arrays shall be screened according to the screening requirements outlined above in Section 327 – Landscaping and Section 328 – Screened Service Areas.

Pursuant to 30 VSA section 248 (s) ground mounted solar arrays exceeding 150 kW in size shall be set back from municipal road and highway boundaries at least 100 feet, and from all other property boundaries at least 50 feet.

Pursuant to 10 VSA section 584, any Outdoor Wood Boiler (OWB) in the state that is not certified under the air pollution control regulations to meet the Phase I, Phase II, or a more stringent emission limit shall be retired on or before December 31, 2012, if the OWB is located within 200 feet of a residence, school, or health care facility that is neither served by the OWB nor owned by the owner or lessee of the OWB or has resulted or results in a complaint regarding emissions, including particulate matter or smoke, that the agency has determined is valid.

### **Section 330 - Family Child Care Facilities & Day Cares**

A state registered or licensed family child care home or facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of property.

A state registered or licensed family child care home or facility serving no more than six full-time children and four part-time children shall be considered to constitute a permitted use of property but shall require site plan approval.

Exceptions:

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

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

A state registered or licensed child care or day care facility serving more than six full-time and four part-time children shall be considered a non-residential use of property and shall be regulated in accordance with the Table of Uses (Article III).

### **Section 331 – Residential Care and Group Homes**

A state licensed or registered residential care home or group home, serving not more than eight persons who have a 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 not such home shall be so considered if it locates within 1,000 feet of another such home.

A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be treated as a

non-residential use of property and shall be regulated in accordance with the Table of Uses (Article III).

### **Section 332 - Mobile Home Parks**

In addition to complying with the provisions of all applicable state statutes, mobile home parks in the Town of Proctor shall meet the following requirements:

No person shall construct or operate a mobile home park without first obtaining site plan approval from the Planning Commission and a permit from the Administrative Officer. Before such permit is issued, there must be a performance bond from the operator of the park, to assure that the park is constructed and maintained in a satisfactory manner.

Application shall follow the procedure of Article VI - Site Plan Approval.

The Planning Commission may accept the proposed plans, accept the plan with recommended changes or conditions or reject the plan. The Commission shall submit the application and plans to the Administrative Officer, with the Commission's actions regarding the permit.

The Planning Commission may require any other improvements or facilities before approving the plan in the interest of public safety, health and welfare.

### **Section 333 - Mobile Home Park Standards**

Each mobile home park shall have an area of at least five (5) acres.

The park shall be located on a site graded to insure adequate drainage of surface water, sub-surface water, sewage, and freedom from stagnant pools.

Parks shall provide for individual mobile home spaces, access roadways, parking and common open space.

Each mobile home space shall contain a minimum of 8,000 square feet in area, and shall be a minimum of 80 feet wide by 100 feet deep and shall front onto an access drive.

No mobile home may be located closer than one hundred (100) feet to an abutting property line or existing dwelling, public right-of-way line, 25 feet of which shall be properly landscaped.

A minimum of one gravel or paved parking space shall be provided for each mobile home lot, and shall be a minimum of 9 feet wide by 18 feet long.

Access roadways shall meet town road standards.

Each mobile and/or manufactured home lot shall be properly landscaped and shall have a minimum of two shade trees.

If Town water and sewer is reasonably accessible, a connection must be made at the discretion of the Town and the expense of the park owner. Each mobile home lot shall have an attachment for water supply and sewer disposal. The water supply source must be approved by the State of Vermont and the disposal method in compliance with and approved by the State.

Appropriate underground utilities shall be provided for each mobile and /or manufactured home space.

Provision shall be made for contracted trash and garbage collection and disposal through the Town's service. All trash and garbage containers shall be concealed at all times in a properly allotted space, except at collection times.

If each mobile home space is served by an individual septic system, the minimum size of the space shall then be the same as in a residential district not served by a public sewer.

Each park shall be screened as approved by the Planning Commission.

Each mobile home shall be located on a permanent foundation of concrete, which provides support for the structure. Skirting shall be used to cover all open space under said mobile home. Siding shall be so installed so as not to warp or sag and shall be properly painted if a metal siding is not used. All mobile homes in the mobile home park shall be used only for residential purposes. No commercial activity of any kind shall be permitted.

The mobile home park shall conform to the requirements set forth in Vermont state statutes. A copy of rules and regulations set up by each mobile and/or manufactured home park or trailer park shall be presented to the Board and will be put on file upon acceptance in the Town Clerk's office for future reference.

### **Section 334 - Junk Motor Vehicles**

No junk motor vehicles shall be kept, stored, or deposited in the open except in accordance with the Town of Proctor's Outdoor Storage of Junk and Junk Vehicles Ordinance.

### **Section 335 - Fuel Storage Facilities**

No fuel storage facilities shall be permitted in source water protection areas as designated by the Department of Environmental Conservation. In " "stricts where permitted, gasoline stations or motor vehicle service stations or motor vehicle 21 ships shall comply with the following:

A gasoline station shall not be located within the wellhead protection area, and within three hundred (300) feet of any lot occupied by a school, hospital, library, or religious institution.

Lot size shall be at least 20,000 square feet.

Lot frontage shall be at least 150 feet.

Lot depth shall be at least 125 feet.

Pumps, lubricating and other service devices shall be located at least fifty (50) feet from the front lot line and side and rear lot lines.

All fuel and oil shall be stored at least thirty-five (35) feet from any property line. Bulk fuel and oil shall, in addition to being placed underground, shall otherwise comply with State regulations.

All automobile parts and dismantled vehicles are to be stored within a building, and no repair work is to be performed outside a building.

No signs shall extend beyond the pumps, nor exceed twenty (20) feet in height above grade.

There shall be no more than two (2) access driveways from the street, the maximum width of each shall be forty (40) feet.

A suitable curbed landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as a driveway in addition to any other landscaping required by these regulations.

### **Section 336 - Storage of Flammable Liquids**

Storage of any highly flammable or explosive substance in tanks above ground with unit capacity greater than five hundred and fifty (550) gallons shall be prohibited, unless such tanks, up to and including ten thousand (10,000) gallons capacity are placed not less than eighty (80) feet from all property lines, and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than two hundred (200) feet from all property lines.

All tanks having a capacity greater than five hundred and fifty (550) gallons shall be properly retained with dikes having a capacity not less than one and one-half times the capacity of the tanks.

### **Section 337 - Extraction of Sand, Gravel, or Stone**

In any district, the removal of soil, sand or gravel for sale or otherwise, except when incidental to construction of a building on the same lot for, shall be permitted only upon approval of a plan for the rehabilitation by the Planning Commission after a public hearing. Such an approval will include such conditions as deemed by the Planning Commission to be necessary to insure proper redevelopment of the site and the safety and general welfare of the public.

The facility shall be adequately screened from any residential building on an adjacent lot.

A plan for ongoing reclamation as specified by the Board of Adjustment must be approved prior to the issuance of any land use permit.

A bond or other security to insure compliance with the approved reclamation plan may be required by the Board of Adjustment for all extraction uses except quarrying operations. In determining the amount of the bond required, the Board of Adjustment shall consider the past record of the developer and the financial health of the developer.

Fencing of sufficient height and strength to deny access to the public is required around any pit or excavation.

Loads per truck shall not exceed the weight limits of the roads over which the truck will travel within Proctor.

Loads must be covered when off-site or loaded so as not to spill while en route.

### **Section 338 - Performance Standards**

In accordance with V.S.A. 4407, the following performance standards must be met and maintained for all uses in all districts. No use, under normal conditions, shall cause, create or result in:

Regularly occurring noise in excess of 65 decibels A scale.

Clearly apparent constant vibration which, when transmitted through the ground, is discernible at property lines without aid of instruments for more than three (3) minutes in a thirty (30) minute period.

Smoke, dust, noxious gases, dirt, or other forms of air pollution which constitute a nuisance or threat to neighboring landowners, businesses, residents, or vegetation; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive, uncharacteristic of the affected area, and readily detectable without instruments.

Releases of heat, cold, moisture, mist, fog or condensation that are detrimental to neighboring properties and uses, or the public health, safety and welfare.

Any electromagnetic disturbances or electronic transmissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission).

Glare, lumen, light or reflection which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health, safety and welfare. This applies to signs as well as other uses.

Liquid or solid waste or refuse which violate State and/ or local standards; or are in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare.

Undue fire, safety, explosive, radioactive emission or other hazard which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.

Harmful wastes to be discharged into the sewer system, streams or other bodies of water.

### **Section 339 - General Signs**

A. Advertising or billboard signs shall not be permitted in any zoning district except such directional or informational signs which comply with the State of Vermont regulations regarding sign size and which shall be located within the street right-of-way at such intersections as authorized by the Selectboard. No signs shall be permitted in any district except as specifically provided herein as follows:

One professional or home occupation sign, not to exceed four (4) square feet.

One temporary real estate sign, not to exceed six (6) square feet.

One sign identifying any non-residential building or use permitted in residential districts, not to exceed four (4) square feet.

Directional or informational signs not to exceed four (4) square feet.

Signs necessary for public safety or welfare.

One business sign not to exceed thirty-two (32) square feet.

Other signs as approved by the Planning commission.

Every sign shall be designed and located in such a manner as to:

Not impair public safety.

Not restrict clear vision between the sidewalk and the street.

Not be confused with any traffic sign or signal.

Not prevent free access to any door, window, or fire escape.

Withstand a wind pressure load of at least thirty (30) pounds per square foot.

### **Section 340 - Wall Projection, Ground and Roof Signs**

A. Every wall sign shall not exceed the highest point of the building's roof.

B. Every projecting sign shall:  
Not extend within the street line.

Not be less than nine (9) feet above the surface of a public walkway area.

C. Every ground sign shall:

Not exceed twenty (20) feet in height above grade.

Be set back at least twenty (20) feet from any street line and at least ten (10) feet from any other lot line.

D. Roof signs shall not be permitted in any zoning district.

### **Section 341 - Illuminated and Flashing Signs**

A. Signs may be illuminated by a steady light provided that such lighting will not illuminate, reflect or create glare onto other properties including public highways.

B. Flashing, oscillating or revolving signs shall not be permitted unless necessary for public safety and welfare.

### **Section 342 – Animals**

The raising or harboring of livestock, including but not limited to horses, cattle, sheep, hogs, fowl or fur bearing animals shall be prohibited within the residential district unless the owner obtains the written approval of all property owners within one hundred (100) yards of the premises. Accepted agricultural practices (section 1002) are exempt from this section.

Common household pets are excepted from this section provided that there are not more than four (4) cats and /or dogs over six (6) months old harbored on an individual premise in the residential district. Chickens are permissible in the residential district as a common domestic animal, but roosters are not. No more than 12 chickens may be harbored on a single premise in the residential district.



## **ARTICLE IV: USES PERMITTED SUBJECT TO CONDITIONS**

A zoning permit shall be issued by the Administrative Officer for any use or structure which requires conditional use approval only after the Zoning Board of Adjustment (ZBA) grants such approval, after public notice and public hearing determines that the proposed use will conform to specific standards set forth in these Regulations.

### **Section 401 - General Considerations**

In considering its action, the ZBA shall make findings that the proposed conditional use does not result in an undue adverse effect upon:

The capacity of existing or planned community facilities, including the schools, the town office, the fire department, and any public water supply or sewage disposal systems.

The character of the area affected, as defined by the purposes of the zoning district within which the project is located and specifically stated policies and standards of the municipal plan.

Traffic on roads and highways in the vicinity.

The potential for renewable energy resources on affected or adjacent properties.

Bylaws and Ordinances then in effect.

All structures, parking and loading areas, and accesses shall be located and designed to minimize natural resource and aesthetic impacts of the development. Designs which retain the maximum meadowland for potential agricultural use and maximum land of scenic value shall be given favorable consideration.

The ZBA shall also consider the Site Plan requirements as set forth in these Regulations.

In granting conditional use approval, the ZBA may attach such reasonable conditions in addition to those outlined, as it deems necessary.

Applicants are strongly encouraged to simultaneously notify other permitting governmental agencies, as needed.

The conditions for lot size and setbacks in Article III, Section 304, Lot Sizes, Setbacks and Yards shall apply unless Article V is more restrictive.

### **Section 402 - Applications for Conditional Use**

All uses requiring Conditional Use approval, except one and two family dwellings, are also subject to the following: The owner and/or applicant shall submit five (5) sets of a site plan and supporting data to the Administrative Officer which shall include the following information presented in drawn form and accompanied by written text:

Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.

Survey of the property by a certified surveyor or engineer showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.

Site plan showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing

and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.

Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

The location and size of proposed signs.

Certification that the applicant has notified all adjoining property owners of the application.

Any of the above information can be waived at the discretion of the ZBA.

A request for a waiver of these submission requirements shall be submitted to the ZBA and shall specify which portions are requested for waiver. The applicant shall include a preliminary site plan providing sufficient information upon which the ZBA can make a decision. The ZBA may request additional information.

A request for a waiver shall not be considered as submission for purposes of timing requirements relating to action on applications.

The Administrative Officer shall check to see if all required information has been submitted and the fee paid and, if so, shall submit the completed application to the ZBA. Incomplete applications shall be returned to the applicant.

### **Section 403 - Siting of Conditional Uses**

#### *A. Landscaping – General*

The proposed development shall be landscaped or screened to ensure compatibility with adjoining areas. In particular, the ZBA may require structures, parking and loading areas, or accesses to be screened or landscaped according to the following criteria:

Visibility of areas from roads and/or adjoining properties.

The need to screen parking areas from roads and adjacent properties.

Proximity of lots used for residential purposes.

All landscaping and screening shall be completed and maintained in accordance with the conditional use permit as approved by the ZBA.

In determining the amount of planting to be required, the ZBA should take into account:

Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.

Visibility of areas from roads and/or adjoining properties.

The need to effectively screen all parking areas from roads and adjacent properties.

Proximity of lots used for residential purposes.

#### *B. Specific Landscaping Requirements.*

All new parking lots may be required to be screened by a strip not less than 15 feet in width with suitable plantings, screening or landform.

All plantings, when initially installed, are to be of a size and shape approved by the ZBA. If the ZBA determined that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plantings to accomplish the screening or buffering goals, the ZBA may require that fencing be installed during the interim.

If the ZBA determines that plantings are not appropriate, it may approve a suitable fence.

The remainder of the yard space shall be landscaped and maintained in good appearance. Where non-residential uses are located adjacent to residential uses, there shall, to the extent practicable, be plantings or attractive solid fencing to screen out noise and all outdoor lighting from the view of the adjacent residential uses.

All landscaping shall be completed and maintained in accordance with the site plan as approved by the ZBA. Any dead or diseased planting shall be replaced as soon as seasonally possible.

The applicant may be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required.

#### C. *Pedestrian Circulation*

The ZBA may require pedestrian walkways to facilitate pedestrian movements.

In all districts, the ZBA may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

The ZBA shall consider maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

#### D. *Access*

The ZBA may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

Adequacy of parking and loading facilities. Adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces. Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties. Refuse and service areas shall be included. Provisions for snow removal shall also be made.

#### *Protection of Renewable Energy Resources*

Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.

#### *Bond*

The applicant may be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required.

#### **Section 404 - Cottage Industry**

Cottage Industries are permitted in accordance with the following:

No more than fifty (50) percent of the floor area of the principle dwelling or, if in an accessory structure, no area greater than fifty (50) percent of the floor area of the principle dwelling, may be used for a cottage industry.

The use does not change the character of the area and, the dwelling, accessory buildings, and the lot shall maintain a residential appearance at all times.

The cottage industry is clearly secondary to the use of the site for residential purposes.

The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.

No more than two (2) employees, in addition to residents of the dwelling, shall be permitted.

The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

Storage of equipment related to the cottage industry shall be within an enclosed structure or properly screened from adjacent residential uses.

#### **Section 405 – Special Flood Hazard Area and River Corridor District Requirements**

Any proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

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  | Hazard Zone               |          |                 |
|----|---|---------------------------|----------|-----------------|
|    |   | Special Flood Hazard Area | Floodway | River Corridors |
|    | <b>P</b> Permitted<br><b>C</b> Conditional Use Review<br><b>X</b> Prohibited<br><b>E</b> Exempted |                           |          |                 |
| 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  | E                         | E        | E               |
| 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  | E                         | E        | E               |
| 19 | Forestry  | E                         | E        | E               |
| 20 | Agriculture   | E                         | E        | E               |

## Development Review in Hazard Areas

### 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 (ZBA) 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.

### 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:

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

### Prohibited Development in Special Flood Hazard Area and River Corridors

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

### D. Conditional Use Review

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

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

### E. Exempted Activities

The following are exempt from regulation under this bylaw:

The removal of a building or other structure in whole or in part;  
Maintenance of existing roads and storm water drainage;  
Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,  
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.

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

*All development shall be:*

Reasonably safe from flooding;  
Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;  
Constructed with materials resistant to flood damage;  
Constructed by methods and practices that minimize flood damage;  
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;  
Adequately drained to reduce exposure to flood hazards;  
Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,  
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.

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.

*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;

*Non-residential structures to be substantially improved* shall:

Meet the standards in VII A 3; or,  
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.

*Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.

*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.

7. *Recreational vehicles* must be fully licensed and ready for highway use;

8. 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).

9.. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.

10.. *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.

11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.

12. *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;

13. *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.

14 *Subdivisions and Planned Unit Developments must be accessible by dry land* access outside the special flood hazard area.

15. *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



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.

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

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;

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. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;

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;

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.

Bridge and culvert projects must have a Stream Alteration Permit; and

Channel management activities must be authorized by the Agency of Natural Resources.

### Section 406 - Wind Energy Conversion System

In addition to the requirements set forth in Section 401-404, the following shall apply to the construction, erection, installation, alteration or location any off-grid wind energy conversion system:

The application shall include:

The applicant's and property owner's name, address and telephone number;

Plot lines showing property lines, easements, setback lines, and layout of all structures on the lot;

Plot plan showing proposed location of all conversion system pole or tower, guy lines where required, guy line anchor bases and their distance from all property lines; and

Fee as determined by the Selectboard.

The safety of the design shall be certified by a professional engineer or by an authorized factory representative. The Town of Proctor can hire an engineer to review the project at the applicant's expense. It shall conform to the building and electrical codes in effect in the Town of Proctor.

Abandonment- If the Administrative Officer determines that any windmill has been abandoned for more than 12 months, or has become a hazard, he/she may revoke its permit and may require that it be removed by the owner.

Standards:

*Setback-* The windmill tower shall be setback at least one tower height plus one rotor radius from any property line.

*Height-* the ZBA shall determine whether the proposed height is acceptable, based on the impact of the site and neighborhood and documentation of the machine's safety.

*Minimum blade height-* Blade clearance shall be at least twenty (20) feet from the ground.

*Access-* To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.

*Noise-* The windmill shall not exceed 60 dBA, as measured at the lot line.

*Wind Capacity-* the windmill shall be designed to withstand a wind speed of at least 120 miles per hour.

*Maintenance-* The applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event that the applicant fails to maintain the facility, the Town of Proctor may undertake such maintenance at the expense of the applicant and/or landowner.

*Insurance-* the facility owner shall maintain adequate (define) insurance on all facilities.

*Site-* The site and any access roadways and transmission lines shall be developed and maintained in a manner that minimizes soil erosion, contamination of surface and ground water sources and damage to wildlife habitats or natural areas.

It shall be the responsibility of the property owner/applicant to contact the FCC and FAA regarding any additional permits or requirements necessary prior to installation.

## **ARTICLE V: SITE PLAN APPROVAL**

### **Section 501 - General Site Plan Approval**

No zoning permit shall be issued by the Administrative Officer for any use or structure, except for one-family and two-family dwellings, accessory structures and uses subject to conditions until the Planning Commission grants a Site Plan Approval.

No zoning permit shall be issued for development of any lot which does not have frontage on a public road without prior approval of access by the Planning Commission.

### **Section 502 - Submission of Site Plan and Supporting Data**

The Owner shall submit five (5) sets of site plan maps and supporting data to the Planning Commission which shall include the following information presented in drawn form to scale and accompanied by written text:

Name and address of the owner of record and adjoining lands. Name and address of person or firm preparing the map (if different). Scale of map, north point and date.

Survey or sketch of the property showing existing features, including contours (if available), structures, roads, rights of way, land use and deed restrictions. And utility locations and easements, to include water, sewer, garbage and electric power.

Site plan showing proposed structure(s), locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.

Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

### **Section 503 - Objectives for Review**

A. In considering its action, the Commission shall consider and may impose appropriate conditions and safeguards with respect to the objectives below.

B. The Commission shall review the site plan map and supporting data before approval or approval with stated conditions, or disapproval, is given, and shall take into consideration the following objectives:

Maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

Adequacy of circulation, parking and loading facilities. Adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts

with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces including those with handicapped specifications.

Particular consideration shall be given to the items in (l) above and effect of noise, glare, or odors on adjoining properties. Refuse and service areas should be included in this consideration. Provisions for snow removal should also be made.

Adequacy of landscaping, screening and setbacks with regard to achieving maximum compatibility and protection to adjacent property. Particular consideration shall be given to preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties and the adequacy of landscaping materials to meet seasonal conditions, soils conditions and light on the site.

Protection of existing or proposed renewable energy resources, such as solar collectors and windmills, on this and adjoining properties.

Adequate stormwater management measures to ensure that no additional stormwater runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters. Plans for handling stormwater runoff shall utilize the best available technology to minimize off-site stormwater runoff, increase on-site infiltration, and encourage natural filtration functions.

#### **Section 504 – Objectives for Review, Special Use Exceptions**

Special Public uses as defined in these regulations consist of:

State- or community-owned and operated institutions and facilities.

Public and private schools and other educational institutions certified by the state Department of Education.

Churches and other places of worship, convents, and parish houses.

Public and private hospitals.

Regional solid waste management facilities certified under 10 V.S.A. Chapter 159

Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

In addition to the objectives listed above in Section 603 (A) and 604 (B)(1-3), the Board may apply the following when reviewing an application for a special public use (listed below), but only to the extent that these regulations do not have the effect of interfering with the intended functional use:

Additional yard space, courts, or setbacks of the use from the property line other than what is already required in the district may be required to protect the privacy of adjoining property owners.

The density, size, height or bulk of buildings may be increased or decreased as needed to ensure compatibility with established patterns of land use in the district, and to ensure orderly growth and development in the community.

#### **Section 505 - Fees**

All site development plans submitted to the Planning Commission shall be accompanied with a fee, as determined by the Selectboard.

**Section 506 – Waivers**

The planning commission may grant waivers to reduce Setbacks provided under one or more of the following circumstances:

- A. The applicant has presented a plan that provides protection to adjacent property through adequate design, landscaping, screening, and/or other remedy.
- B. Adjoining property owners submit a joint development proposal that requires the reduction or elimination of Setbacks between the adjoining properties and meets the requirements of (a) above.
- C. The waiver is for a Structure(s) providing for disability accessibility or public safety.
- D. The waiver will provide for innovative development that would not be possible without the waiver.
- E. A joint development plan should address the use of a common Driveway for access to the entire project.
- F. The plan would allow for parking lots to be placed in the rear of the development.

## **ARTICLE VI: PLANNED RESIDENTIAL DEVELOPMENT**

### **Section 601 - Purpose**

For the purpose of providing for Planned Residential Development (“PRD”) in the Districts. The Planning Commission is hereby empowered to modify the zoning regulations to provide an alternative zoning procedure that may be used to establish PRD’s in accordance with the planning and development objectives of the Proctor Town Plan, and provide standards by which such flexibility may be accomplished, while maintaining and protecting the public health, safety and welfare.

Planned Unit Development is intended to permit development of larger parcels of land which will provide a desirable and stable environment in harmony with that of the surrounding area; to permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic and desirable use of open area; to permit flexibility in design, placement of residential buildings, use of open spaces, circulation facilities, and off-street parking areas; and to utilize best the potentials of sites characterized by special features of geography, topography, size or shape.

### **Section 602 - General Objectives**

To provide a choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and long term asset to the Town.

To preserve agricultural and forest resources, wildlife habitats, natural areas, and other resource areas of importance to the Town.

To foster a pattern of development which preserves trees, outstanding natural topography and geologic features, and prevents soil erosion.

To foster an efficient use of land resulting in smaller networks of utilities and roads.

To foster an environment in harmony with surrounding development.

To foster a more desirable environment than would be possible through the strict application of other sections of these regulations.

Structures and common areas should be arranged in such a way as to best serve the needs of occupants and/or other users of the PRD and minimize any adverse effects or neighboring properties.

Underground utilities will be encouraged wherever possible.

### **Section 603 - Application Process**

A site plan shall be submitted to the Planning Commission showing the location, height, spacing, uses, and architectural inter-relationships of all buildings, open spaces and their landscaping; utility lines, streets, driveways, and off-street parking and unloading spaces, unique or man-made features, and physical conditions of the site, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplements to existing zoning Regulations, and such other information as the Planning Commission may deem necessary.

A Planned Residential Development application<sup>1</sup> also include both maps and a written statement and must show enough of the area surrounding the proposed PRD to demonstrate the relationship of the PRD to adjoining uses, both existing and proposed.

The Planning Commission shall hold at least one public hearing, upon public notice, prior to approval.

Any permitted and conditional uses allowed in the district where the PRD is located, may be included in the PRD, subject to approval under this Section. Dwelling units may be of varied types. The ZBA may combine its Conditional Use hearing with the Planning Commission's PRD hearing.

### **Section 604 - Criteria**

The PRD shall be consistent with the Town Plan.

The minimum size of a PRD shall be five acres.

Only single-family and multi-family dwelling units are permitted in a PRD.

The permitted number of single - family dwellings may, in a PRD, be increased by as much as twenty-five (25) percent beyond the number which would otherwise be permitted on such land under these Regulations. No person shall be required to apply for or accept a density increase. It shall be within the Planning Commission's discretion to allow a density increase. In granting a density increase, the Planning Commission shall take into consideration that the objective to be obtained by allowing density increases is to preserve land.

The Planning Commission shall review and weigh the amount of any such land that will be preserved by an applicant before granting any zoning density increase and shall also consider the capacities of community facilities and services and the character of the area affected.

The Planning Commission may increase or decrease the setback requirements if, in its judgment, the special circumstances of a proposed development would make such requirement inappropriate. Side and rear setback requirements, as listed in Article III and as used in this Section, shall be interpreted as the side and rear setback requirement required for the PRD as a whole and not as the setback requirements for each particular structure placed in such PRD.

The lot sizes and the number of allowable dwelling units must be separately calculated for each individual development in the PRD.

Any mixed uses shall be so arranged as to insure visual and acoustical privacy to residents in the development.

Water and utilities shall be demonstrated to be adequate, and all sewage and other effluent disposal shall be designed by a professional engineer so it will not become a public health hazard.

Unique natural features of the site shall be preserved.

If a Planned Residential Development application results in land available for park, recreation, open space or other municipal purposes, the Planning Commission as a condition of its approval may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

The Planning Commission may attach such reasonable conditions and safeguards as may be necessary to implement the purposes of 24 V.S.A. Chapter 117 and these Regulations, in order to protect the public health, safety and welfare. These may include screening and landscaping.

The Planning Commission may require from the owner, for the benefit of the Town, a performance bond with a good and sufficient surety, in an amount sufficient to cover the full costs of public or private roadways and utility lines, in situations where buildings are to be constructed prior to the completion of such roadways or utility lines.

The Planning Commission shall also have the same powers in any Planned Residential Development application with respect to adequacy of traffic access, circulation and parking, landscaping and screening, and such other items as it has in a Site Plan Review procedure, to the extent not already provided for in this Section.

If the PRD contains units to be owned as condominiums, the applicant shall submit a copy of the Condominium Declaration and Bylaws proposed for the project.  
The applicant shall submit a copy of any restrictive covenants proposed to run with ownership of the project or portions thereof.



## **ARTICLE VII: NONCONFORMITIES**

### **Section 701 - Construction Approved Prior to Adoption or Amendment of Regulations**

Nothing contained in these Regulations shall require any change in a use or structural nonconformity where such use or structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

### **Section 702 - Change of Use Nonconformity**

A use nonconformity may be changed to another use nonconformity only with the approval of the ZBA and then only to a use which in the judgment of the Board is of a lesser, or no more, nonconforming nature and providing that no structural changes are made in the building. Whenever a use nonconformity has been changed to a conforming use, it shall not be changed back to a use nonconformity.

### **Section 703 - Extension of a Use Nonconformity**

A use nonconformity may be extended throughout the building, provided no substantial structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.

### **Section 704 - Enlargement of a Use Nonconformity**

A use nonconformity may be enlarged on the same lot provided that:  
All provisions of these Regulations, except type of use, are complied with;  
The ZBA determines that the character of the neighborhood will not be changed substantially by this enlargement;  
Only one such extension is made, and  
The total enlargement does not exceed fifty (50%) percent of the area of the nonconforming use in existence at the time of the adoption of these Regulations.

### **Section 705 - Restoration of a Use Nonconformity**

Any use nonconformity which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two year period, to the same use nonconformity as existed before such damage.

### **Section 706 - Discontinuance of Use Nonconformity**

Any use nonconformity of land or building which has ceased by discontinuance, or abandonment for a period of one year shall thereafter conform to the provisions of these Regulations. Intent to resume a use nonconformity shall not confer the right to do so unless actual resumption occurs within the specified time period.

### **Section 707 - Maintenance of a Structural Nonconformity**

A structural nonconformity may be normally maintained and repaired provided that such action does not increase the degree of nonconformity.

#### **Section 708 - Expansion of a Structural Nonconformity**

The ZBA may approve the relocation or replacement of a structural nonconformity provided that the structure does not increase its dimensional non-conformance.

#### **Section 709 - Restoration of a Structural Nonconformity**

Any structural nonconformity which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two year period, to the same dimensional nonconformity as existed before such damage.

#### **Section 710: Development on a Nonconforming Lot**

An existing nonconforming lot may be normally developed upon provided that all provisions of these regulations, except those which create the structural nonconformity, are complied with.

#### **Section 711: Alternation of a Parcel with a Lot Nonconformity**

The boundaries of a parcel with a lot nonconformity may be altered only in a manner that decreases, or does not increase, the degree of nonconformity.

#### **Section 712: Nonconformities in a Flood Hazard Area**

##### Nonconforming Structures and Uses

The ZBA 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 VII 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.

## **ARTICLE VIII**

### **Section 801 - Exemptions**

No zoning permit shall be required for the following activities:

Required agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with 24 VSA §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with 24 VSA §4413(d).

Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.

Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs.

### **Section 802: Interpretation of Regulation**

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in 24 VSA Chapter 117 or these regulations, it is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

### **Section 803: Fees**

Fees may be established by the Select Board in amounts necessary to cover all costs of the Administrative Officer, the Board of Adjustment and the Planning Commission for such items as processing applications, including costs of material, administrative time, reasonable overhead such as postage, telephone, and the hiring of appropriate professionals to review various aspects of an application, etc.

**Section 804: Amendments**

Any provision of this Regulation, as well as the boundaries of the various land use districts established herein, may be amended or repealed subject to the provisions of Sections 4442 of 24 V.S.A. 117.

**Section 805: Warning of Disclaimer of Liability**

These Regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages.

These regulations shall not create liability on the part of the Town of Proctor or any local official or employee thereof for any flood damages that result from reliance on this Regulation or any administrative decisions lawfully made there under.

**Section 806: Severability**

If any provision of this regulation is held invalid, the invalidity does not affect other provisions or applications of this regulation, which can be given effect without the invalid provision or application.

**Section 807: Effective Date**

This Regulation shall take effect upon approval in accordance with the procedures contained in Section 4442 of 24 V.S.A. 117.

**Section 808: Precedence of Regulation**

The provisions of this regulation shall take precedence over any conflicting and less restrictive local laws. This Regulation amends all preceding Zoning Regulations for the Town of Proctor

**Section 809: Limitations on Municipal Bylaws**

A. The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- a. State or community owned and operated institutions and facilities
- b. Public and private schools and other educational institutions certified by the Agency of Education
- c. Churches and other places of worship, convents, and parish houses
- d. Public and private hospitals
- e. Regional solid waste management facilities certified under 10 VSA chapter 159
- f. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

B. Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (A) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development

in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and 24 VSA 4424. These regulations shall not have the effect of interfering with the intended functional use.

a. A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

b. Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under State statutes, the more stringent or restrictive regulation applicable shall apply.

c. A bylaw under this chapter shall not regulate required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

## **ARTICLE IX: ZONING PERMITS**

### **Section 901 - Applicability**

No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Proctor until a zoning permit has been issued by the Administrative Officer, as provided for in 24 VSA §§4448, 4449.

### **Section 902 - Application**

*Application Requirements.* An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application. In addition, the following information will be required as applicable:

*Permitted Uses.* Applications for a permitted use shall include one copy of a sketch plan, no smaller than 8.5" x 11", drawn showing dimensions and distances that depicts the information required on the Town's zoning application form. The application form shall be periodically reviewed and adopted by the Planning Commission.

*Uses Subject to Development Review.* For development requiring one or more approvals from the Planning Commission or Zoning Board of Adjustment prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Board.

### **Section 903 - Flood Hazard District Applications**

Applications for development shall include:

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;

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**

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.

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.

#### **Section 904 - Issuance**

A zoning permit shall be issued by the Administrative Officer only in accordance with 24 VSA §4449 and the following provisions:

Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Planning Commission, Zoning Board of Adjustment, and/or state for consideration. In accordance with 24 VSA §§4448, 4449, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Planning Commission, Board of Adjustment or Legislative Body (including but not limited to water, sewer, and highway right of way permits), until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].

A zoning permit shall include a statement of the time within which appeals may be taken under Article XI; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

Special Duties Relating to Flood District Permits: No permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after: the Administrative Officer shall properly file and maintain a record of:

All permits issued in areas covered by this bylaw;

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;

All flood proofing and other certifications required under this regulation; and,

All decisions of the ZBA (including variances and violations) and all supporting findings of fact, conclusions and conditions.

### **Section 905 - Effective Date**

No zoning permit shall take effect until the time for appeal under Article XI has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

Zoning permits shall become void one year from the date of issue unless substantial progress in construction has been made or occupancy complete. A permit or certificate may be renewed by the Administrative Officer for cause for an additional six (6) months upon request. The applicant must reapply and obtain another zoning permit to complete the activities as initiated under the original permit.

### **Section 906 – Certificates of Occupancy**

In accordance with 24 VSA §4449, a certificate of occupancy issued and signed by the Administrative Officer shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued, with the exception of accessory structures and unenclosed structural additions.

An unsigned certificate of occupancy shall be provided with the zoning permit issued by the Administrative Officer. The applicant shall contact the administrative officer to complete the certificate of occupancy prior to the use or occupancy of the land or structure.

A certificate of occupancy shall not be signed by the administrative officer until all necessary approvals and permits required by these regulations have been obtained for the project, and the Administrative Officer determines that the project has been fully completed in conformance with all such approvals and permits.

Within 14 days of request by the applicant, the Administrative Officer shall inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.



The Town may attach a reasonable, returnable fee for the completion of a certificate of occupancy.

## **ARTICLE X: VARIANCES**

### **Section 1001 - Variance Criteria**

The Board of Adjustment shall hear and decide requests for variances as required by 24 VSA §4469(a) and appeal procedures under Article XI. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;

Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;

The unnecessary hardship has not been created by the appellant;

The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

### **Section 1002 - Variances, Renewable Energy Structures**

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with 24 VSA §4469(b), the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;

The hardship was not created by the appellant;

The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect.

### **Section 1003 - Variances within the Flood Hazard Area**

Variances may be granted in writing by the ZBA 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 VIII.

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.

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.

## **ARTICLE XI: VIOLATIONS AND ENFORCEMENT**

### **Section 1101 - Violations**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with 24 VSA §§4451, 4452. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Proctor, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

### **Section 1102 - Notice of Violation**

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under 24 VSA §4451. The notice of violation also shall be recorded in the land records of the municipality under Section 1501. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months

### **Section 1103 - Limitations on Enforcement**

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with 24 VSA §4454. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 1501.

#### **Flood Hazard 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.

## **ARTICLE XII: APPEALS**

### **Section 1201 - Administrative Officer Actions**

Any interested person as defined under 24 VSA §4465 may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Board of Adjustment, or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under 24 VSA §4468. The Board shall give public notice of the hearing under Section 1401, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant §4470.

In accordance with 24 VSA §4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.

A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under 24 VSA §4464(b). The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 1403. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

### **Section 1202 - Interested Persons**

The definition of an interested person under 24 VSA §4465(b) includes the following:

A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

The Town of Proctor or any adjoining municipality;

A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;

Any ten (10) voters or property owners within the municipality who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and

Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

### **Section 1203 - Notice of Appeal to Board of Adjustment**

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 VSA §4466:

The name and address of the appellant,

A brief description of the property with respect to which the appeal is taken,

A reference to applicable provisions of these regulations,

A statement of the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and

A short description of the alleged grounds why such relief is believed proper under the circumstances.

### **Section 1204 - Appeals to Environmental Court**

In accordance with 24 VSA §4471, an interested person who has participated in a regulatory proceeding of the Planning Commission or Board of Adjustment may appeal a decision rendered under Article XI, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

“Participation” in a Commission or Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

## **ARTICLE XIII: PUBLIC HEARINGS**

### **Section 1301 - Public Notice**

In accordance with 24 VSA §4464, a warned public hearing shall be required for conditional use review, appeals of decisions of the administrative officer, and variances. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;

Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made; and

Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal

Public notice of site plan review and all other types of development review not listed in Section 1401(A), shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and

Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

The applicant shall be required to bear the cost of public warning and the cost of notifying adjoining landowners as required above.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission or Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

### **Section 1302 - Hearings**

In accordance with 24 VSA §4461, all meetings and hearings of the Planning Commission or Board of Adjustment, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Commission or Board. The Commission or Board, in conjunction with any hearing under this bylaw, may:

Examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;

Require the attendance of any person having knowledge in the premises;

Take testimony and require proof material for its information; and

Administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 1102 are met. The Commission and Board shall keep a record of the name, address, and participation of each of these persons.

In accordance with 24 VSA §§4464(b), 4468, the Commission or Board may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

### **Section 1303 – Decisions**

Any action or decision of a Planning Commission or Board of Adjustment shall be taken by the concurrence of a majority of the members. In accordance with 24 VSA §4464(b), the Board or Commission shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Article XI. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

In rendering a decision in favor of the applicant, the Planning Commission or Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of 24 VSA Chapter 117, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Proctor Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of a Planning Commission or Board of Adjustment shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Town Clerk as part of the public record of the municipality.

#### Flood Hazard Decisions

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



## ARTICLE XIV: DEFINITIONS

### Section 1401 - Definitions

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; the word "person" includes "individual, partnership, association, corporation, or any other incorporated or unincorporated organization or group". The Board of Adjustment shall clarify doubt as to the precise meaning of any word used in these Regulations.

**Accessory Building or Use:** A building, structure or use on the same property as a principal building used for purposes normally incidental to those of the principal building.

**Accessory Dwelling:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with the following:

The property has sufficient waste water capacity

The unit does not exceed 30 percent of the total habitable floor area of the single family dwelling

Applicable setback, coverage, and parking requirements specified in the bylaws are met

**Administrative Officer:** Refers to the Town's Zoning Administrator or the person appointed to administer the Zoning Regulations. This person is recommended by the Planning Commission and appointed by the Board of Selectmen.

**Administrator, FIA:** Refers to the Federal Insurance Administration.

Appurtenant: Connected or share a common wall

**Area of special flood hazard:** The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area includes all A zone designations on the Flood Insurance Rate Map. It does not include zones B and C.

**Attached:** Having a common wall and/or roof.

**Auto Service Station with Retail Store/ Mini Mart:** Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile and manufactured maintenance activities such as engine overhauls, automobile and manufactured painting, and body fender work are conducted. This includes a retail store with gasoline pumps as a secondary use, often referred to as a mini-mart.

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

**Basement:** Any area of the building having its floor sub grade (below ground level) on any or all sides.

**Bed and Breakfast:** A lodging facility located within a residential dwelling with accommodations for up to 10 transient guests.

**Building Height:** The vertical distance from the average finished grade surrounding the buildings to the highest point of the roof beams in flat roof; to the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves. Towers, steeples, cupolas, chimneys, antennas, silos and similar structures are exempt from height considerations.

**Building:** Any structure enclosed by exterior walls and covered by a roof constructed or used for residence, business, and other public or private purposes.

**Cottage Industry:** An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site and which meets the conditions of Article 5. Cottage industries also include a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**Day care facility:** Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of children under sixteen years of age outside their homes for periods of less than twenty-four hours a day by a person other than a child's own parent, guardian or relative, but not including a kindergarten approved by the state board of education or a family child care facility.

**Family Child Care Facility:** A state registered day care facility, which provides for care on a regular basis in the caregiver's own residence for not more than six children full time and four children part time at any one time. For the purpose of this subdivision, pursuant to 33 V.S.A. section 3511 care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

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

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

**Dwelling:** Any building used by humans for habitation.

**Dwelling, One-Family:** Detached building used as living quarters by one family.

**Dwelling, Two-family:** Single building used as living quarters by two families, living independently of each other.

**Dwelling, Multifamily:** A dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances, and including apartments, group homes, row houses, and condominiums; also multiple dwellings.

**Dwelling Unit:** Any dwelling or portion thereof used by one family and providing complete housekeeping facilities for the family.

**Environmental Court.** The court to whom appeals are taken from decisions of the Planning Commission or Board of Adjustment (24 V.S.A 4471).

**Family:** Two or more persons living together as a single housekeeping unit.

**Flood Hazard Area:** See "Area of Special Flood Hazard."

**Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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

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

**Flood Plain:** The area generally encompassed by the 100 year flood boundaries including the floodway and floodway fringe. See "Area of Special Flood Hazard."

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

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Gas Station:** Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile and manufactured maintenance activities such as engine overhauls, automobile and manufactured painting, and body fender work are conducted. This does not include a retail store with gasoline pumps as a secondary use, often referred to as a mini-mart.

**Group Home:** A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a 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.

**Highway:** A public way; esp. a main direct road.

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

**Junk:** As defined in the Proctor Outdoor Storage of Junk and Junk Vehicles Ordinance.

**Junk Motor Vehicle:** As defined in the Proctor Outdoor Storage of Junk and Junk Vehicles Ordinance.

**Junk Yard:** Land or building used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, wrecking dismantling, storage, salvaging and sale of machinery parts. This use is specifically prohibited.

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

**Line of Building:** The line of the face of the building nearest the lot line, including sun porches, and open or closed porches but not the following:

- Outside steps, including landings
- Fire escapes
- Cellar hatchways
- Handicap ramps
- Chimneys

**Lot:** Any undivided interest in land, whether freehold or leasehold, including but not limited to interests created by trusts, partnerships, corporations, countenances and contracts.

**Lot Line:** Any line bounding a lot as herein defined. The Administrator may determine Lot lines for unusual lot configurations. (*Also see Yard*)

**Front Lot Line:** The line separating the lot from the street or road right-of-way. If a lot abuts more than one street, each line is a front lot line.

**Rear Lot Line:** The lot line most distant from the front lot line.

**Side Lot Line:** A lot line not a front or rear lot line.

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

**Manufactured Home:** For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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

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

Transportable in one or more sections; and

At least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

Any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

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

(Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes).

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

**New Construction:** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management Regulation adopted by a community and includes any subsequent improvement to such structures.

**Nonconformity:** Uses, lots, parcels or structures that do not conform to the present bylaws.

**Use Nonconformity:** A use of land, lot, or structure which does not comply with the use regulations for the district in which it is located.

**Dimensional Nonconformity:** A structure, lot or land or part thereof not in conformance with the dimensional requirements of this Regulation.

**Official Zoning Map:** The one true copy of the Town Zoning Map located in the office of the Town Clerk.

**Park, Municipal:** Any park or recreation area or facility owned by the Town of Proctor.

**Parking Space:** A space, measuring ten feet by twenty-two feet, for off-street parking of a motor vehicle in conformance with these Regulations.

**Performance Bond:** A document issued either by a bonding or surety company approved by the legislative body or by the owner with security acceptable to the legislative body, in an amount sufficient to cover the full cost of said required improvements and their maintenance for a certain period of time as is estimated by the Planning Commission or such municipal departments or officials as the board may designate. Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required and for the maintenance thereof.

**Principal Building:** A building in which the primary use of the property on which it is located is conducted. Attachments are a part of a principal building.

**Recreation, Private:** Recreation uses privately owned and operated, including but not limited to picnic grounds, archery ranges, hiking and riding trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, golf pitch and putt course, par three golf courses, hunting preserves, skating rinks, swimming pools, parks, beaches, tennis courts, indoor bowling alley, theater, table tennis and pool hall, gymnasium, health club, hobby workshop, archery range, riding stables.

**Residential Apartment (Multi-family Structure):** A building or portion thereof, designed for occupancy by three or more families living independently of each other.

**Residential Care Home:** A place, excluding a licensed foster home, which provides, for profit or otherwise, room, board, and personal care to three or more residents unrelated to the home operator.

**Restaurant:** An establishment whose principal business is the selling of food and beverages to customers seated within or adjacent to the building. Drive-up and drive-through services are prohibited. On-sale liquor services are also prohibited (on-sale beer and wine are permitted as regulated by law).

**Right-of-Way:** A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and / or other public utilities or facilities.

**Self-Service Storage Facility.** A building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

**Setback:** Front setback -the yard between the centerline of the right-of-way and the front line of a principal building extended to the sidelines of the lot. Rear setback – the yard between the rear lot line and the rear line of the principal building extended to the sidelines of the lot. Side setback – the yard between the side lot line and the side yard line of the principal building extended to the front and rear yards.

**Single Family Detached Dwelling:** A dwelling occupied by a single family in a single dwelling unit.

**Site Plan:** A plan, to scale, showing uses and structures proposed for a parcel of land as required by these Regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

**Structure:** An assembly of materials for occupancy or use, including, but not limited to, a building, mobile and manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operation farm.

**Street:** A public thoroughfare, including road, highway, drive, land, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

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

**Temporary Structure:** A structure designed for use while a permanent structure is under construction, undergoing substantial repairs or reconstruction, or for a special event or conference.

**Trailer Park/Campground/R.V. Park:** Privately owned land leased to owners or occupants of transient trailers, recreational vehicles or tents.

**Trailer/Recreational Vehicle:** A vehicle intended to be used for a temporary dwelling, travel and recreational activities. It may be equipped to receive a supply of running water and be provided with bath facilities, flush toilet and sanitary connections.

**Two Family Detached Dwelling:** Building used as living quarters by two families living independently of each other, i.e. 2 baths, 2 kitchens, 2 entrances, etc.

**Wind Energy Conversion System:** any device such as a wind charger, windmill or wind turbine which converts wind energy to a form of usable energy.

**Yard:** An open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

**Front Yard:** The yard between the front lot line and front line of a principal building extended to the sidelines of the lot.

**Rear Yard:** The yard between the rear lot line and the rear line of a principal building extended to the sidelines of the lot.

**Side Yard:** The yard between the side lot line and the side yard line of the principal building extended to the front and rear yards.

