

Waterbury, Vermont

Unified Development Bylaws

INITIAL DRAFT May 30, 2018

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1 GENERAL

1.1 Title, Enactment and Purpose

1.1.1 TITLE

- 1.1.1.A These are the *Unified Development Regulations* for the Town of Waterbury and constitute the municipality's zoning and subdivision regulations.

1.1.2 ENACTMENT AND AUTHORITY

- 1.1.2.A The Town of Waterbury has adopted these regulations in accordance with and as authorized by the *Vermont Municipal and Regional Planning and Development Act*, 24 V.S.A. Chapter 117.

1.1.3 PURPOSE

- 1.1.3.A The purpose of these regulations is to implement the *Waterbury Municipal Plan* and the *Vermont Municipal and Regional Planning and Development Act* by regulating the use and development of land within the Town of Waterbury. These regulations are intended to:
- (1) Provide for orderly and coordinated development;
 - (2) Ensure that land use and development will not adversely impact public health, safety and welfare;
 - (3) Guide land use and development in a manner that is consistent with smart growth principles as defined in Paragraph 5.1.3.S(9);
 - (4) Promote land use and development that maintains or enhances quality of life and community character;
 - (5) Protect natural, cultural and historic resources;
 - (6) Allow for residential land uses and development as necessary to meet the housing needs of residents;
 - (7) Ensure that there will be safe and adequate vehicular, pedestrian and emergency access to and within development sites;
 - (8) Ensure the rate of growth does not exceed the existing capacity of, or the municipalities' abilities to adequately provide, public services and facilities; and
 - (9) Establish sound development and engineering standards that result in well-constructed projects that will not burden the municipalities with unreasonable future costs associated with building, maintaining or repairing infrastructure.

1.1.4 EFFECTIVE DATE

- 1.1.4.A These regulations and any subsequent amendments will take effect in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

1.1.5 AMENDMENT OR REPEAL

- 1.1.5.A The Town of Waterbury Selectboard may amend or repeal these regulations, in whole or part, at any time in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

1.1.6 SEVERABILITY

- 1.1.6.A If a court of competent jurisdiction invalidates any provisions of these regulations, that decision will not affect the validity, application or enforcement of the remaining provisions of these regulations.

1.1.7 DISCLAIMER OF LIABILITY

- 1.1.7.A These regulations do not create any liability on the part of the municipality, its officials, agents, employees, or representatives for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.

1.2 Applicability

1.2.1 COMPLIANCE WITH THESE REGULATIONS

- 1.2.1.A All development within Waterbury not exempted in Section 1.2.6 requires a zoning permit or subdivision approval issued in accordance with these regulations.

1.2.2 ALLOWED USES

- 1.2.2.A **Permitted Uses.** Property owners may obtain a zoning permit for a use listed in Section 3.3.1 as permitted (P) in the applicable zoning district in accordance with the procedures established in Chapter 2.3. Permitted uses other than single- and two-family dwellings may require site plan approval in accordance with the provisions of Section 2.4.3.
- 1.2.2.B **Conditional Uses.** Property owners must first obtain a conditional use approval from the Development Review Board in accordance with the provisions of Section 2.4.4 before they may only obtain a zoning permit for a use listed in Section 3.3.1 as conditional (C) in the applicable zoning district.
- 1.2.2.C **Nonconforming Uses.** Property owns may only obtain a zoning permit for modification or expansion of a nonconforming use in accordance with the provisions of Section 1.3.3. A nonconforming use is a use that existed prior to these regulations and is no longer listed as permitted or conditional in the applicable district.
- 1.2.2.D Also see Section 3.1.5.

1.2.3 PROHIBITED USES

- 1.2.3.A The Zoning Administrator must not issue a zoning permit for a use not listed in Section 3.3.1 as permitted or conditional in the applicable district. Also see Section 3.1.5.

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1.2.4 CHANGE OF USE

- 1.2.4.A **Change from One Use Definition to Another.** A property owner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same definition in Section 3.3.1 (e.g., a personal service use like a barber shop to a restaurant use like a coffee shop).
- 1.2.4.B **Change within a Use Definition.** A property owner will not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same definition in Section 3.3.1 (e.g., a retail use like a clothing store to a retail use like a home furnishings store). Other development associated with the change of use may require a permit or approval (e.g., new or modified signage).

1.2.5 EXPANSION OF USE

- 1.2.5.A **Nonresidential Uses.** A property owner must obtain a zoning permit, and any development approvals as applicable, to expand a non-residential use to occupy additional space in a building or on a lot.
- 1.2.5.B **Residential Uses.** A property owner:
- (1) Must obtain a zoning permit, and any development approvals as applicable, to increase the number of bedrooms in a dwelling unit; but
 - (2) Will not need to obtain a zoning permit to expand a residential use to occupy existing space in the building provided the number of bedrooms will not increase.

1.2.6 EXEMPTIONS

- 1.2.6.A **General Exemptions.** The development listed below is not subject to these regulations (a zoning permit will not be required) unless it will be occurring within the Special Flood Hazard Overlay District (see Chapter 3.4.3) or the Design Review Overlay District (see Chapter 3.4.1):
- (1) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Property owners must obtain a zoning permit for repair or reconstruction beyond the minimum necessary to stabilize and secure the structure (see Section 1.3.6).
 - (2) Complete demolition of an accessory structure in whole or part on single- or two-family residential property. Partial demolition that poses a threat to public health or safety will be considered a violation subject to the enforcement provisions of these regulations (see Section 1.3.8).
 - (3) Any alteration of an existing structure other than a sign (see Section 4.3.6) that does not change the:
 - (a) Structure's location, exterior dimensions, wastewater generation or use;
 - (b) Amount of floor area associated with an existing non-residential use; or
 - (c) Number of units (residential or non-residential) in the structure.
 - (4) Normal maintenance and repair of sidewalks and walkways, including replacement or reconstruction within the same footprint as the original.
 - (5) Normal maintenance and repair of essential services.

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- (6) Landscaping, grading or excavating that will not materially alter an approved site plan that is associated with:
 - (a) Normal maintenance and repair of roads, driveways, parking areas, sidewalks, walkways, stormwater facilities or essential services (this does not include paving an existing unpaved parking lot or driveway, which does require a zoning permit); or
 - (b) Site improvements that do not result in more than 10 cubic yards of clean soil being removed from or brought onto the lot within any calendar year and that do not affect existing drainage patterns on adjacent lots or public rights-of-way.
- (7) Replacement or reconstruction of an existing fence or wall that will:
 - (a) Not materially alter an approved site plan;
 - (b) Be in the same location; and
 - (c) Substantially be constructed of the same material, the same style or design, and the same height as the pre-existing fence or wall.
- (8) A new fence or wall on a one- or two-family residential lot that:
 - (a) Is not more than 6 feet tall, if located in the side or rear yard;
 - (b) Is not more than 4 feet tall, if located in the front yard or if functioning as a retaining wall;
 - (c) Does not extend into or obstruct a public right-of-way;
 - (d) Does not interfere with corner visibility or sight distance for vehicular traffic;
 - (e) Does not affect existing drainage patterns on adjacent lots or public rights-of-way;
 - (f) Does not pose a safety hazard;
 - (g) Is not designed to inflict physical harm; and
 - (h) Is installed so that any support posts are to the inside and the “finished” or “good” side faces out towards the street or adjoining property.
- (9) Snow fences installed no earlier than November 1 and removed no later than May 1.
- (10) A fuel tank on a one- or two-family residential lot.
- (11) Any HVAC system, back-up generator, water well casings or pumps, utility poles or connection boxes, or similar mechanical or utility equipment on a one- or two-family residential lot that:
 - (a) Has a footprint or is located on a pad that does not exceed 80 square feet, if ground-mounted;
 - (b) Meets applicable setback and height requirements for the zoning district; and
 - (c) Is sited, installed and secured in accordance with state and federal requirements.
- (12) An above-ground swimming pool on a one- or two-family residential lot that:
 - (a) Does not exceed a horizontal width of 20 feet in any dimension or a depth of 5 feet;
 - (b) Does not have a permanent foundation;
 - (c) Meets applicable setback requirements for the zoning district; and

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- (d) That is installed and secured to prevent unauthorized access.
- (13) An unroofed patio or deck on a one- or two-family residential lot that:
 - (a) Has a footprint that does not exceed 200 square feet; and
 - (b) Meets applicable setback and lot coverage requirements for the zoning district.
- (14) Wheelchair ramps, uncovered entry stairs, landings or walkways on a one- or two-family residential lot that do not:
 - (a) Exceed 6 feet in width or, for landings, 40 square feet in area;
 - (b) Extend into or obstruct a public right-of-way;
 - (c) Interfere with corner visibility or sight distance for vehicular traffic; and
 - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way.
- (15) Not more than 3 accessory structures not otherwise exempted under this section on any one- or two-family residential lot, each of which:
 - (a) Has a footprint that does not exceed 120 square feet;
 - (b) Is not more than 12 feet tall;
 - (c) Is not located within the applicable front setback for the zoning district; and
 - (d) Is located at least 10 feet, or the setback for the applicable zoning district if less, from the side and rear lot line.
- (16) Outdoor light fixtures on a one- or two-family residential lot that:
 - (a) Have an initial output that does not exceed 3,000 lumens; and
 - (b) Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.
- (17) Signs listed in Subsection 4.3.6.C, and street and traffic control signs.
- (18) A solar energy device that:
 - (a) Will be installed on and project not more than 10 feet above the surface of a sloped roof; or
 - (b) Will be installed on a flat roof (any roof with a slope of 5% or less).
- (19) A television antenna, radio antenna, satellite dish or similar device used to provide on-site communication service that:
 - (a) Is not more than 15 square feet in area, if a dish antenna;
 - (b) Does not extend more than 12 feet above the roofline, if attached to a building;
 - (c) Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure);
 - (d) Meets applicable setback requirements for the zoning district; and
 - (e) Does not interfere with public safety communications.
- (20) An antenna mounted on an existing structure used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes that does not interfere with public safety communications.

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- (21) Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.
- (22) Public art as defined in Paragraph 5.1.3.P(5) that does not:
 - (a) Extend into or obstruct a public right-of-way unless otherwise approved by the municipality or state, as applicable;
 - (b) Interfere with corner visibility or sight distance for vehicular traffic;
 - (c) Affect existing drainage patterns on adjacent lots or public rights-of-way; and
 - (d) Pose a safety hazard.
- (23) A home occupation that (home occupations or businesses that do not meet the criteria below will require zoning permit in accordance with Section 4.2.3 or Section 4.2.4 as applicable):
 - (a) Is located within a dwelling unit;
 - (b) Occupies not more than 25% of the habitable floor area of that dwelling;
 - (c) Is carried out by one or more residents of that dwelling;
 - (d) Does not have any non-resident employees working from that dwelling;
 - (e) Does not have a sign; and
 - (f) Does not alter the residential character of the property, have any off-site impacts or generate traffic in excess of what is typical of residences in the area.
- (24) Garage sales, yard sales, tent sales, auctions or similar activities that do not occur on the lot for longer than 4 consecutive days and for more than 28 days in any calendar year.
- (25) Sales of used vehicles, equipment or similar personal or business goods owned by the property owner or tenant that do not occur on the lot for more than 20 days in any calendar year and that are limited to not more than 3 items displayed outside at any one time.
- (26) Use of public or private land for hunting, fishing or trapping in accordance with state regulations. Development supporting such activities may require a zoning permit under these regulations.
- (27) Use of public or private land for noncommercial passive outdoor recreation or gardening. Development supporting such activities may require a zoning permit under these regulations.
- (28) Development within public rights-of-way that is subject to approval from the municipality or state as applicable.

1.2.6.B Development with a Certificate of Public Good. Property owners do not need to obtain a zoning permit for development that receives a Certificate of Public Good from the Public Utilities Commission under 30 V.S.A. § 248. For solar energy generating facilities, see Section 4.1.9.

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- 1.2.6.C **Agricultural or Silvicultural Practices.** Property owners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture or Department of Forests, Parks and Recreation, respectively. The Zoning Administrator may require a landowner to submit a written determination from the applicable state agency as to whether the subject land use activity is a required agricultural or accepted silvicultural practice. The Zoning Administrator will enforce violations of required agricultural practices as a violation of these regulations and will report any violations to the Agency of Agriculture for enforcement under state law.
- 1.2.6.D **Farm Structures.** Property owners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:
- (1) The property owner must demonstrate that proposed development qualifies as an exempt farm structure.
 - (2) The Zoning Administrator may require a property owner to provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed development qualifies as an exempt farm structure.
 - (3) Farm structures, other than walls or fences used for farming purposes, must meet the setback requirements for the district unless the property owner provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the applicable zoning district.
 - (4) Upon finding that the applicant has demonstrated that the proposed development qualifies as an exempt farm structure, the Zoning Administrator will issue the property owner a letter stating that he/she may build and use the structure for farming purposes in accordance with the state's required agricultural practices without a zoning permit, but that he/she must obtain a zoning permit before using the structure for any other purpose in accordance with these regulations.

1.2.7 RELATIONSHIP WITH OTHER LAWS OR REGULATIONS

- 1.2.7.A If any provision of these regulations is more restrictive than any other applicable law or regulation, the provision of these regulations will apply and take precedence.
- 1.2.7.B If any provision of another law or regulation is more restrictive than these regulations, the provision of these regulations will be superseded and the more restrictive provision will apply.

1.3 Vested Rights and Pre-Existing Development

1.3.1 PRIOR APPLICATIONS

- 1.3.1.A The Zoning Administrator and Development Review Board will review applications based on the regulations in effect at the time the Zoning Administrator determined that the filed application was complete.

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1.3.2 PRIOR APPROVALS

- 1.3.2.A **Zoning Permits Issued Prior to Amendment or Adoption of these Regulations.** If the Zoning Administrator lawfully issued a zoning permit before Waterbury adopted or amended these regulations, an applicant will not need a new or amended permit for the project. If such an applicant does not substantially complete the development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.
- 1.3.2.B **Prior Zoning Permits for Phased Projects.** If an applicant received approval for a phased project before Waterbury adopted or amended these regulations, the Zoning Administrator will issue permits for the development as approved irrespective of any change in these regulations. However, if such an applicant does not substantially complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.
- 1.3.2.C **Prior Development Approvals.** If proposed development is not completed or commenced in accordance with Subsection 2.3.3.C, any development approvals (other than a subdivision approval) associated with the zoning permit will expire with the zoning permit. If a development approval expires, the applicant will need to apply for a new approval under the regulations in effect at the time of the new application.
- 1.3.2.D **Lawfully Recorded Subdivision Plats.** If an applicant lawfully recorded an approved subdivision plat in the Waterbury land records, that plat will remain valid and will not expire irrespective of any change in these regulations.
- 1.3.2.E **Effect of Change in Ownership.** Zoning permits and development approvals remain valid irrespective of any change in ownership of the property.

1.3.3 NONCONFORMITIES

- 1.3.3.A **Nonconforming Uses.** A nonconforming use that lawfully existed when Waterbury adopted or amended these regulations will be regulated as follows:
- (1) **Continued Operation.** A nonconforming use may continue to exist in its current location and configuration, and to operate unchanged indefinitely.
 - (2) **Relocation.** A property owner or tenant must not move a nonconforming use from one location to another where it would also be a nonconforming use.
 - (3) **Resumption.** A property owner or tenant must not resume a nonconforming use that was abandoned, discontinued or replaced with another use for more than 12 months. If a nonconforming use is located in a structure that is damaged or destroyed by any cause, the property owner or tenant may resume the use once the structure is repaired or rebuilt provided that a complete application for repair or reconstruction is filed within 12 months of the structure being damaged or destroyed.
 - (4) **Minor Expansion.** The Zoning Administrator may issue a zoning permit to allow a property owner or tenant to extend or expand a nonconforming use to fully occupy space within the associated building as that building existed when the use became nonconforming.

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- (5) **Major Expansion.** The Development Review Board may approve a greater extension or expansion of a nonconforming use within the boundaries of the subject property as a conditional use in accordance with the provisions of Section 2.4.4 and upon the applicant demonstrating the proposed extension or expansion will not result in greater adverse impacts on the character of the area.
 - (6) **Change of Use.** The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use in accordance with the provisions of Section 2.4.4 and upon the applicant demonstrating that the proposed nonconforming use will be more compatible with the uses allowed in the applicable district and with the character of the area than the existing nonconforming use.
- 1.3.3.B **Nonconforming Structures.** A nonconforming structure that lawfully existed when Waterbury adopted or amended these regulations will be regulated as follows:
- (1) **Continued Existence.** A nonconforming structure may continue to exist unchanged indefinitely.
 - (2) **Use.** A property owner or tenant may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any land use allowed in the applicable zoning district.
 - (3) **Repair and Maintenance.** A landowner may undertake normal repair and maintenance of a nonconforming structure without a zoning permit in accordance with these regulations.
 - (4) **Additions.** The Zoning Administrator may issue a zoning permit for changes to the exterior dimensions of a nonconforming structure provided that the proposed development:
 - (a) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height as applicable;
 - (b) Will not convert a nonconforming porch, deck or similar feature to enclosed and/or conditioned building space;
 - (c) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
 - (d) Would not otherwise require a development approval from the Development Review Board.
 - (5) **Code or Accessibility Improvements.** The Zoning Administrator may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure, including further encroachments beyond the existing nonconforming building line or height as applicable, to the minimum extent necessary to comply with state or federal building code, energy code or accessibility requirements.
 - (6) **Damaged or Destroyed Structures.** A property owner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been unintentionally damaged or destroyed by any cause provided that:
 - (a) The landowner submits a complete zoning permit application within 12 months of the damage or destruction occurring; and
 - (b) The repair or reconstruction does not change the exterior dimensions of the

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structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.

1.3.3.C **Nonconforming Lots.** The following apply to nonconforming lots:

- (1) **Continued Existence.** A nonconforming lot may continue to exist unchanged indefinitely.
- (2) **Merger.** If a nonconforming lot comes into common ownership with one or more contiguous lots, Waterbury will not deem the lot merged with the contiguous lot(s) for the purposes of these regulations (a property owner may choose to merge contiguous lots in accordance with Subsection 2.4.6.C).
- (3) **Lot Size.** A property owner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of these regulations provided that the lot:
 - (a) Is legally subdivided and able to be conveyed separate from any other lot;
 - (b) Existed as of the effective date of these regulations;
 - (c) Is at least $\frac{1}{8}$ acre (5,445 square feet) in area; and
 - (d) Is not less than 40 feet in any dimension.
- (4) **Lot Frontage.** A property owner with a lot that does not meet the minimum lot frontage for the zoning district may develop that lot in accordance with Paragraph 3.1.6.E(1) all other applicable provisions of these regulations.

1.3.4 **DISCONTINUED USES**

1.3.4.A **Nonresidential Uses.** A property owner must obtain a zoning permit, and any development approvals as applicable, to resume the use of a vacant non-residential site or structure if the prior non-residential use has been discontinued for more than 12 months except:

- (1) If a property owner or tenant discontinued a non-residential use as result of damage to the structure in which it was housed, the owner or tenant may re-establish the use once the structure has been repaired or rebuilt in accordance with Section 1.3.6. If the use is nonconforming, also see Subsection 1.3.3.A.
- (2) The Zoning Administrator may extend the period of discontinuance for a conforming use to a total of not more than 3 years if the property owner or tenant demonstrates that he/she is actively marketing the property or business for sale or lease. If the use is nonconforming, see Subsection 1.3.3.A.

1.3.4.B **Residential Uses.** A property owner will not need to obtain a zoning permit to resume the residential use of a vacant dwelling unit provided there is no increase in the number of bedrooms in the unit.

1.3.5 **ABANDONED DEVELOPMENT**

1.3.5.A If development authorized by a zoning permit is abandoned without being completed, the property owner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to the zoning permit expiring.

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- 1.3.5.B A property owner must secure and enclose any vacant or abandoned structures as necessary to protect public health and safety and to protect the structure from the elements.

1.3.6 DAMAGED OR DESTROYED STRUCTURES

- 1.3.6.A **Action Required Immediately.** A property owner must act promptly to stabilize and secure a structure that was damaged or destroyed by any cause as necessary to protect public health and safety.
- 1.3.6.B **Action Required within 12 Months.** Within 12 months of a structure being damaged or destroyed by any cause, a property owner must either:
- (1) Stabilize and secure the structure as necessary to protect the structure from the elements and to protect public health and safety, if the structure will be reconstructed; or
 - (2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion.
- 1.3.6.C **Zoning Permit Required.** Property owners must obtain a zoning permit to repair or reconstruct a damaged or destroyed structure, but they do not have to pay the associated application fee if a complete application for repair or reconstruction is filed within 12 months of the structure being damaged or destroyed.
- 1.3.6.D **Nonconforming Structures.** If a nonconforming structure is damaged or destroyed, a property owner may rebuild and use the structure in accordance with Subsection 1.3.3.B provided that:
- (1) The structure as reconstructed does not exceed the original floor area;
 - (2) The structure as reconstructed is not more nonconforming than the original structure; and
 - (3) The property owner submits a complete application for a zoning permit for reconstruction within 12 months of the structure being damaged or destroyed.

1.3.7 BLIGHTED STRUCTURES

- 1.3.7.A **Redevelopment Projects.** As part of any project requiring major site plan approval from the Development Review Board, a property owner must rehabilitate, stabilize, remove or demolish any blighted structure(s) located on the subject property.

1.3.8 DEMOLITION

- 1.3.8.A **Applicability.** Demolition of a structure or part of a structure, not including structures exempted in Section 1.2.6, will require a zoning permit in accordance with the provisions of this section. Demolition of a structure or part of a structure shown on an approved site plan will require site plan approval in accordance with the provisions of Section 2.4.3.
- 1.3.8.B **General Standards.** Within 60 days after demolition is complete:
- (1) All structural materials and debris must be removed from the site;
 - (2) The site must be restored to a natural grade; and
 - (3) Groundcover must be re-established to prevent erosion unless otherwise specified as a condition of approval.

2 ADMINISTRATION

2.1 Roles and Responsibilities

2.1.1 ZONING ADMINISTRATOR

- 2.1.1.A The Planning Commission will nominate and the Selectboard will appoint a Zoning Administrator for a term of three years in accordance with state statute. The Zoning Administrator may not be a member of the Development Review Board.
- 2.1.1.B The Planning Commission may nominate and the Selectboard may appoint an Acting or Assistant Zoning Administrator to act under the supervision of the Zoning Administrator, in the Zoning Administrator's absence, and/or if the Zoning Administrator has a conflict of interest. The Acting or Assistant Zoning Administrator will have the same duties and responsibilities as the Zoning Administrator under these regulations.
- 2.1.1.C The Selectboard may remove the Zoning Administrator for cause at any time after consultation with the Planning Commission. The Zoning Administrator will be subject to the personnel rules of the municipality.
- 2.1.1.D The Zoning Administrator must administer and enforce the provisions of these regulations strictly and may only issue permits or approvals for development that conforms to these regulations.
- 2.1.1.E The Zoning Administrator will:
- (1) Assist applicants in determining whether and which municipal permits and/or approvals will be needed for proposed development;
 - (2) Provide applicants with application forms;
 - (3) Inspect projects during construction as necessary;
 - (4) Maintain records;
 - (5) Respond to complaints and violations; and
 - (6) Perform all other tasks necessary to administer these regulations.

2.1.2 PLANNING COMMISSION

- 2.1.2.A The Selectboard appoints members to the Planning Commission in accordance with state statute. The Selectboard may appoint one or more alternates to serve on the Planning Commission when a member is absent, has a conflict of interest or is otherwise unable to serve.
- 2.1.2.B The Selectboard may remove a Planning Commission member at any time upon a unanimous vote.
- 2.1.2.C The Planning Commission does not perform any development review functions under these regulations, but it may make recommendations on planning and development issues in Waterbury generally.

- 2.1.2.D The Planning Commission may prepare amendments to these regulations and make recommendations to the Selectboard on the amendment of these regulations.

2.1.3 DEVELOPMENT REVIEW BOARD

- 2.1.3.A The Selectboard appoints members to the Development Review Board in accordance with state statute. The Selectboard may appoint one or more alternates to serve on the Development Review Board when a member is absent, has a conflict of interest or is otherwise unable to serve.
- 2.1.3.B The Selectboard may remove a Development Review Board member for cause upon written charges and after a public hearing.
- 2.1.3.C The Development Review Board performs development review functions as specified in these regulations and in accordance with state statute.
- 2.1.3.D The Development Review Board must administer and enforce the provisions of these regulations strictly and must not approve any development not allowed under these regulations.

2.2 Fees and Filing Requirements

2.2.1 PERMIT FEES

- 2.2.1.A The Selectboard will establish fees for the Zoning Administrator or other municipal employees to charge for administering these regulations. These fees may include, but are not limited to, the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections during construction.
- 2.2.1.B An applicant must pay the applicable fee(s) when submitting an application. The Zoning Administrator must not deem an application complete until all applicable fees are paid in full.

2.2.2 IMPACT FEES

- 2.2.2.A Waterbury may require applicants to pay impact fees in accordance with any duly adopted impact fee ordinance prior to the issuance of a zoning permit, the start of construction, and/or the issuance of a certificate of compliance.

2.2.3 TECHNICAL OR LEGAL REVIEW COSTS

- 2.2.3.A The Zoning Administrator or Development Review Board may hire qualified professionals to provide an independent technical and/or legal review of an application when deemed necessary to ensure compliance with these regulations, the cost of which will be paid by the applicant.

2.2.4 PERFORMANCE BONDS OR SURETIES

- 2.2.4.A The Zoning Administrator or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to insure the completion of required improvements.

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2.2.4.B The applicant will provide a quote prepared by a qualified professional for the project cost. The Zoning Administrator or Development Review Board will base the amount of any bond or surety on that quote.

2.2.4.C Waterbury will only release the bond or surety after certification by the applicant and determination by the Zoning Administrator that the required improvements have been satisfactorily completed.

2.2.5 MONITORING OR INSPECTION COSTS

2.2.5.A The Zoning Administrator or Development Review Board may condition approval upon monitoring and inspection during construction or once the use has commenced when deemed necessary to ensure compliance with these regulations, the cost of which will be paid the applicant.

2.2.6 AS-BUILT DRAWINGS

2.2.6.A The Zoning Administrator or Development Review Board may require an applicant to file as-built drawings as a condition of approval.

2.2.6.B Waterbury will require as-built drawings for any infrastructure to be built within public rights-of-way or to be turned over to the municipality.

2.2.6.C The Zoning Administrator may require an applicant to file as-built drawings when approved plans are amended or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

2.2.7 OTHER PERMITS, APPROVALS AND CERTIFICATIONS

2.2.7.A The Zoning Administrator or Development Review Board may condition approval upon the applicant filing other permits, approvals or certifications required by Waterbury or other regulatory entities prior to the issuance of a zoning permit, the start of construction, and/or the issuance of a certificate of compliance.

2.3 Zoning Permits

2.3.1 SUBMITTING AN APPLICATION

2.3.1.A **Zoning Administrator.** The Zoning Administrator will assist prospective applicants by:

- (1) Determining whether a project will require a zoning permit, and any associated development approvals, under these regulations;
- (2) Providing applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s);
- (3) Notifying applicants of the fees or other charges that the municipality may charge in relation to the application or proposed development;
- (4) Informing applicants that state permits may be required for the proposed development and recommending that applicants contact the regional permit specialist; and

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- (5) Providing applicants with copies of the state energy standards for residential or commercial buildings as applicable.

2.3.1.B Applicant. The applicant must:

- (1) Submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a zoning permit, and any associated development approval, under these regulations;
- (2) Provide all the information necessary to demonstrate compliance with these regulations; and
- (3) Certify, by signing the application form, that all the information provided is complete and accurate to the best of his/her knowledge.

2.3.1.C Application Requirements. The Zoning Administrator:

- (1) May waive an application requirement upon finding the information is not necessary to determine conformance with these regulations.
- (2) May require an applicant to provide additional information as necessary to determine conformance with these regulations.
- (3) Must keep written documentation of any application requirement waived or additional information requested as part of his/her office records.

2.3.1.D Determination of Completeness. The Zoning Administrator must:

- (1) Determine whether an application is complete promptly after the applicant submits it.
- (2) Inform the applicant of his/her determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

2.3.1.E Appeal of Administrative Actions. The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this chapter to the Development Review Board as specified in Section 2.5.2.

2.3.2 ACTING ON A COMPLETE APPLICATION

2.3.2.A Time to Act. Once the Zoning Administrator determines that an application for a zoning permit is complete, he/she must act within 30 days to approve, deny or refer the application to the Development Review Board except that the time period within which the Zoning Administrator must act will not commence for a zoning permit application that requires:

- (1) One or more development approvals under these regulations until the applicant has obtained all those necessary approvals, including design review if applicable, for the proposed development; or
- (2) Notification of a state agency until the agency comments or the comment period elapses, whichever occurs first.

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2.3.2.B Deemed Approval. If the Zoning Administrator does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

2.3.2.C Decisions. The Zoning Administrator must approve or deny applications in writing and specifically provide the following information:

- (1) When approving an application, the Zoning Administrator must inform the applicant that he/she:
 - (a) Must post a notice of the zoning permit (to be provided by the Zoning Administrator) in a visible location on the subject property throughout the 15-day appeal period and until the development authorized by the permit is complete;
 - (b) Must not commence the development authorized by the permit until the appeal period has ended;
 - (c) Must not commence the development authorized by the permit until he/she has obtained all required local, state and federal permits or approvals; and
 - (d) For development within the flood hazard overlay district, is developing within the flood hazard area and is subject to all requirements of Section 3.4.3 of these regulations and the National Flood Insurance Program.
- (2) When denying an application, the Zoning Administrator must:
 - (a) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
 - (b) Include a copy of Section 2.5.2, which explains the appeal process.

2.3.2.D Conditions of Approval. The Zoning Administrator:

- (1) May issue a zoning permit with conditions as necessary to ensure compliance with these regulations;
- (2) Must condition any zoning permit for proposed development that is subject to the state's residential or commercial building energy standards on the applicant providing the Zoning Administrator with a copy of an energy certificate for the building when construction is completed; and
- (3) Must condition any zoning permit for proposed development that requires the construction, modification or replacement of a potable water supply or wastewater system, or that increases the design flow or modifies the operational requirements of a potable water supply or wastewater system on the applicant:
 - (a) Obtaining written approval to connect to municipal water and/or sewer, or a state potable water and/or wastewater permit, as applicable; and
 - (b) Providing the Zoning Administrator with a copy of those approvals or permits prior to the start of construction.

2.3.2.E Posting and Filing of Permits. The Zoning Administrator must:

- (1) Post a copy of the zoning permit in at least one public place in the municipality within 3 days after issuing it and that copy must remain posted throughout the 15-day appeal period;

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- (2) Deliver an original, signed copy of the zoning permit or notice of permit to the municipal clerk for recording within 30 days after it becomes effective;
- (3) File a copy of the zoning permit as part of his/her office records; and
- (4) Provide the listers with a copy of the zoning permit.

2.3.2.F **Bylaw Amendment.** The Zoning Administrator must act on any application submitted when the Selectboard is considering amendments to these regulations in accordance with the provisions of state statute, 24 V.S.A. § 4449(d).

2.3.3 OBTAINING A ZONING PERMIT

2.3.3.A **Permit Takes Effect.** A zoning permit takes effect on the 16th day after the Zoning Administrator issues it provided that no appeal is filed during the previous 15 days or that the applicant has not requested a delay (see Paragraph **Error! Reference source not found.**). If an interested person files an appeal, the zoning permit will not take effect until the appeal is decided.

2.3.3.B **Delay in Effect.** The applicant may request that a zoning permit and any associated development approvals not take effect until he/she has obtained all permits and approvals necessary to commence the development in accordance with the following:

- (1) The Zoning Administrator may delay the effective date of a permit and any associated development approvals for up to 18 months. The Development Review Board may approve a longer delay due to factors beyond the applicant's control (e.g., extended or contested Act 250 proceedings or litigation).
- (2) It will be the applicant's responsibility to notify the Zoning Administrator when he/she is ready to commence the development and request that the zoning permit and any associated development approvals take effect.

2.3.3.C **Permit Timeframe and Extension.** Zoning permits and any associated development approvals expire 2 years from the date the permit takes effect unless:

- (1) The Development Review Board specifies otherwise as a condition of approval;
- (2) The applicant commences any use and/or substantially completes any construction authorized by the permit prior to its expiration; or
- (3) Prior to the zoning permit's expiration, the applicant requests and receives from the Zoning Administrator an extension of not more than 1 year. The Zoning Administrator may only grant one such extension upon the applicant demonstrating that:
 - (a) Any improvements completed to date conform to the conditions of the permit and any associated development approvals; and
 - (b) There have been no amendments to these regulations or change in external circumstances that would have caused a material change in the decision on the original application.

2.3.3.D **Transfer of Permit.** Zoning permits and any associated development approvals remain in effect as specified in these regulations irrespective of any change in ownership of the subject property. All subsequent property owners are subject to the requirements and conditions of any zoning permit and associated development approvals.

- 2.3.3.E **Expired Permits.** If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant must apply for a new zoning permit and any other associated development approvals under these regulations.

2.3.4 AMENDING PERMITS OR APPROVALS

- 2.3.4.A An applicant may submit a written request for the Zoning Administrator to amend a zoning permit, and any associated development approval, prior to the permit's expiration. The applicant must demonstrate that the proposed changes to the development:

- (1) Are minor modifications that conform to all applicable provisions of these regulations;
- (2) Are not material or substantial changes that would have affected the decision on the original application;
- (3) Do not have the effect of materially or substantively altering any of the findings of fact of the permit and any associated development approval; and
- (4) Do not change the type, character or intensity of the approved development or use to a greater extent than specified below:
 - (a) Any proposed modification must not result in an increased requirement for parking or loading spaces;
 - (b) Any proposed increase in building footprint must not exceed 500 square feet; and
 - (c) Any proposed substitution of plant materials must not change the overall landscape design concept.

- 2.3.4.B The scope of the review will be limited to those aspects of the development affected by the proposed changes.

- 2.3.4.C The Zoning Administrator may decline to amend a permit, and any associated development approval, and refer the request to the Development Review Board (see Section 2.4.8).

- 2.3.4.D The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

2.3.5 REVOKING PERMITS OR APPROVALS

- 2.3.5.A The Zoning Administrator may petition the Environmental Division of Superior Court to revoke a zoning permit and any associated development approvals if an applicant omitted or misrepresented a material fact on an application or at a hearing.

2.3.6 INSPECTING DEVELOPMENT DURING CONSTRUCTION

- 2.3.6.A The Zoning Administrator may inspect any development during construction as necessary to ensure compliance with these regulations and any permit or approval conditions.

2.3.7 OBTAINING A CERTIFICATE OF COMPLIANCE

- 2.3.7.A **When Required.** An applicant must request a certificate of compliance from the Zoning Administrator before he/she occupies or commences the use of any development subject to a site plan approval.

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- 2.3.7.B **Application.** The Zoning Administrator will provide applicants with the necessary form to apply for a certificate of compliance.
- 2.3.7.C **Time to Act.** The Zoning Administrator must act on a complete application for a certificate of compliance promptly and in all cases within 30 days. The Zoning Administrator may:
- (1) Require the applicant to submit documentation from a qualified professional certifying that the development as constructed conforms to the approved plans; and/or
 - (2) Inspect the subject property and consult with other municipal or state personnel as necessary to determine compliance.
- 2.3.7.D **Deemed Approval.** If the Zoning Administrator does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.
- 2.3.7.E **Criteria.** Before receiving a final certificate of compliance, the applicant must demonstrate to the Zoning Administrator that:
- (1) The development is complete and conforms to the requirements of the zoning permit and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
 - (2) All commonly-owned or shared improvements and infrastructure connections are complete and conform to any applicable municipal specifications, the requirements of the zoning permit and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
 - (3) The applicant has recorded all required documents with the municipality including, but not limited to, as-built drawings, energy certificate, approval of water and sewer connection or wastewater and potable water supply permit, access permit, and stormwater permit; and
 - (4) The applicant has paid all required fees.
- 2.3.7.F **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:
- (1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with Section 2.2.4 to insure full completion of the outstanding work;
 - (2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with Section 2.2.4 if any commonly-owned or shared improvements or infrastructure connections remain incomplete; and
 - (3) The applicant must apply for a final certificate of compliance prior to the expiration of the temporary certificate.
- 2.3.7.G **Phased Development.** If the development will be phased, Zoning Administrator may issue certificates of compliance for individual phases as they are completed in accordance with the permit and associated conditions of approval.

- 2.3.7.H **Decisions.** The Zoning Administrator must approve or deny applications for a certificate of compliance in writing. When denying an application, the Zoning Administrator must:
- (1) State the reasons for the denial;
 - (2) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
 - (3) Include a copy of Section 2.5.2, which explains the appeal process.
- 2.3.7.I **Denials.** If the Zoning Administrator denies an application for a certificate of compliance:
- (1) The Zoning Administrator must commence appropriate enforcement action under Chapter 2.7 if he/she finds a violation of these regulations.
 - (2) The applicant may re-apply after remedying any conditions identified as the reason for the denial.

2.4 Development Approvals

2.4.1 APPLICATION PROCESS

- 2.4.1.A **Pre-Application Conference.** A prospective applicant may request a pre-application conference with the Zoning Administrator prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the application. Any comments or recommendations made are intended to provide general direction to the prospective applicant, but they will not be deemed binding in the preparation or review of any subsequent application for development approval.
- 2.4.1.B **Zoning Administrator.** The Zoning Administrator will assist prospective applicants by:
- (1) Determining whether a project will require one or more development approvals, including design review, under these regulations;
 - (2) Providing applicants with the necessary form(s) to apply for the required approval(s); and
 - (3) Notifying applicants of the fees or other charges that the municipality may charge in relation to the application or proposed development.
- 2.4.1.C **Applicant.** The applicant must:
- (1) Submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a development approval under these regulations;
 - (2) Provide all the information necessary to demonstrate compliance with these regulations; and
 - (3) Certify, by signing the application form, that all the information provided is complete and accurate to the best of his/her knowledge.
- 2.4.1.D **Determination of Completeness.** The Zoning Administrator must:
- (1) Determine whether an application is complete promptly after the applicant submits it; and

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- (2) Inform the applicant of his/her determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

2.4.1.E Waiver of Application Requirements. The Zoning Administrator:

- (1) May waive an application requirement upon written request by the applicant and upon the applicant demonstrating that the information is not necessary to determine compliance with these regulations;
- (2) May require an applicant to provide additional information as necessary to determine compliance with these regulations; and
- (3) Must keep written documentation of any application requirement waived or additional material requested as part of his/her office records and submit that information to the Development Review Board with the application.

2.4.1.F Referral to Development Review Board. Once the Zoning Administrator determines that an application is complete, he/she must warn a public hearing on the application by the Development Review Board at their next available regularly scheduled meeting following the warning period required under Section 2.6.1.

2.4.1.G Appeal of Administrative Actions. The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 2.5.2.

2.4.2 SIGN REVIEW

2.4.2.A Applicability. The provisions of this section will apply to any application for a new or modified sign associated with an existing use or with a use not subject to site plan review. All other signs will be reviewed as part of the site plan review for the proposed development (see Section 2.4.3).

2.4.2.B Review Process. The Zoning Administrator will act on sign applications as follows:

- (1) The Zoning Administrator must act on a complete sign application within 30 days.
- (2) The Zoning Administrator may approve, deny or refer sign applications to the Development Review Board.
- (3) To approve a sign application, the Zoning Administrator must find that the proposed sign conforms to the standards of Section 4.3.6.
- (4) The Zoning Administrator may approve a sign application with conditions as necessary to ensure compliance with these regulations.
- (5) The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 2.5.2.

2.4.3 SITE PLAN REVIEW

2.4.3.A Applicability. All proposed development other than a single-family or two-family dwelling, and any accessory uses or structures to such a dwelling, requires site plan approval by the Development Review Board before the Zoning Administrator may issue a zoning permit.

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2.4.3.B Purpose. The purpose of site plan review is to ensure that:

- (1) The physical aspects of proposed development comply to all applicable provisions of these regulations;
- (2) Proposed development is of high quality and designed to be visually compatible with its setting through use of landscaping, screening, outdoor lighting, signage, building form and mass, and architectural details;
- (3) Proposed development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible;
- (4) Streets, curb cuts, driveways, parking facilities, emergency access, utilities and other infrastructure, both on-site and off-site, are adequate and available to support the proposed development; and
- (5) Proposed development is energy efficient and avoids, mitigates and/or minimizes (listed in order of preference) adverse environmental effects to the greatest extent feasible.

2.4.3.C Classification. The Zoning Administrator will classify a site plan application for proposed development that:

- (1) **Minor Site Plan.** Does not meet the definition of a major site plan as a minor site plan (see Subsection 2.4.3.D); and
- (2) **Major Site Plan.** Includes any of the following as a major site plan (see Subsection 2.4.3.E):
 - (a) Commencement of a new conditional use;
 - (b) Construction of a multi-family dwelling (3 units or more) or any increase in the number of units within a residential building that will result in the total number of units in the building being 3 or more;
 - (c) Change of use if the two uses do not fall under the same use definition in Section 3.3.1;
 - (d) Construction of a new principal building;
 - (e) Construction of a new access (this will not be interpreted to include modification of existing curb cuts); or
 - (f) Construction of more than 2,000 square feet of impervious surface (this will not be interpreted to include resurfacing of existing impervious surfaces).

2.4.3.D Minor Site Plans. The Zoning Administrator will act on minor site plan applications as follows:

- (1) The Zoning Administrator must act on a complete minor site plan application within 30 days.
- (2) The Zoning Administrator may approve, deny or refer minor site plan applications to the Development Review Board.
- (3) To approve a site plan application, the Zoning Administrator must find that the proposed development meets all of the applicable criteria specified in Figure 2-01.
- (4) The Zoning Administrator may approve a minor site plan application with conditions as necessary to ensure compliance with these regulations.

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- (5) The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 2.5.2.

2.4.3.E Major Site Plans. The Development Review Board will review major applications and any minor site plan applications referred by the Zoning Administrator as follows:

- (1) The Development Review Board must hold a public hearing and issue a decision on a site plan application in accordance with Chapter 2.6.
- (2) To approve a site plan application, the Development Review Board must find that the proposed development meets all of the applicable criteria specified in Figure 2-01.
- (3) The Development Review Board may approve a site plan application with conditions as necessary to ensure compliance with these regulations.

2.4.3.F State Highways. The applicant must submit a letter of intent from the Vermont Agency of Transportation with any site plan application for proposed development that involves access to a state highway.

2.4.4 CONDITIONAL USE REVIEW

2.4.4.A Applicability. The commencement or expansion of a conditional use requires approval from the Development Review Board before the Zoning Administrator may issue a zoning permit.

2.4.4.B Purpose. The purpose of conditional use review is to ensure that proposed development will not have undue adverse effects on the neighborhood, environment, and public infrastructure, facilities or services.

2.4.4.C Acting on a Conditional Use Application. The Development Review Board must hold a public hearing and issue a decision on a conditional use application in accordance with Chapter 2.6.

2.4.4.D Review Criteria. To approve a conditional use application, the Development Review Board must find that the applicant has demonstrated that the proposed development meets all of the applicable standards specified in Figure 2-01.

2.4.4.E Conditions of Approval. The Development Review Board may approve a conditional use application with conditions as necessary to ensure compliance with these regulations.

2.4.5 PLANNED UNIT DEVELOPMENT REVIEW

2.4.5.A A planned unit development (PUD) will require subdivision approval under these regulations.

2.4.5.B If proposed development within a PUD also requires design review, site plan and/or conditional use approval under these regulations, the Development Review Board will conduct those reviews concurrently with subdivision review in accordance with Section 2.4.7.

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2.4.6 SUBDIVISION REVIEW

2.4.6.A Applicability

- (1) A person must not subdivide land, and no land in any subdivision shall be sold, leased or otherwise transferred without first recording an approved subdivision plat in the municipal land records in full conformance with these regulations, except that he/she:
 - (a) May record corrective boundary surveys and/or corrective deeds in the municipal land records to correct boundary metes and bounds depictions or descriptions or to correct other technical errors with previously recorded surveys or deeds for existing parcels with known boundaries without obtaining subdivision approval under these regulations.
- (2) The Zoning Administrator must not issue any permits for land development on a lot created by subdivision until a subdivision plat has been recorded in the municipal land records in conformance with these regulations.

2.4.6.B Purpose. The purpose of subdivision review is to ensure that:

- (1) Subdivided lots are suitable for development without endangering public health, safety or welfare;
- (2) Appropriate provisions are made for necessary improvements including, but not limited to, water supply, sewage disposal, stormwater management, fire and emergency protection and access, and utilities;
- (3) Proposed subdivisions are complimentary to and functionally integrated with surrounding development and the existing road network to the greatest extent feasible; and
- (4) Proposed subdivisions are energy efficient and avoid, mitigate and/or minimize adverse environmental effects to the greatest extent feasible; and
- (5) Thresholds and conditions under which the Zoning Administrator may classify an application as eligible for administrative review as an Administrative Land Division are structured so that no new subdivision will be approved that results in substantial impact under any of the standards set forth in this bylaw.

2.4.6.C Lot Line Adjustment and Lot Merger

- (1) The Zoning Administrator may approve the realignment, relocation or elimination of a boundary line between existing lots in accordance with the procedures of Chapter 2.3 provided that the proposed change:
 - (a) Will not result in an increase in the number of lots;
 - (b) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity);
 - (c) Will not increase the degree of nonconformity of a pre-existing nonconforming lot or structure; and
 - (d) Will not violate any conditions of a prior permit or approval.
- (2) The Zoning Administrator may refer applications to the Development Review Board for review as a minor subdivision.

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- (3) Within 180 days after the Zoning Administrator approves an application, the applicant must file a final subdivision plat for recording in the municipal land records in accordance with Subsection 2.4.6.J.

2.4.6.D **Classification.** The Zoning Administrator will classify an application for a proposed subdivision as follows:

- (1) **Administrative Land Division.** A subdivision that will result in a parcel being divided into not more than 3 lots (including the parent parcel) within a continuous 5-year period (see Subsection 2.4.6.E);
- (2) **Minor Subdivision.** A subdivision that does not meet the definition of an administrative land division or major subdivision as a minor subdivision (see Subsection 2.4.6.F); and
- (3) **Major Subdivision.** Any of the following as a major subdivision (see Subsection 2.4.6.G):
 - (a) A planned unit development;
 - (b) A subdivision subject to Act 250 approval; or
 - (c) A subdivision that involves the construction of a new road, or the extension or upgrade of an existing road.

2.4.6.E **Land Division.** An applicant for an administrative land division approval may submit a final plan for review and approval by the Zoning Administrator in accordance with the provisions of this section, without completing the preliminary plan review process. The Zoning Administrator may refer applications to the Development Review Board for review as a minor subdivision.

2.4.6.F **Minor Subdivision.** An applicant for a minor subdivision approval may submit a final plan for review and approval by the Development Review Board in accordance with the provisions of this section without completing the preliminary plan review process.

2.4.6.G **Major Subdivision.** An applicant for a major subdivision approval must submit a preliminary and final plan for review and approval by the Development Review Board in accordance with the provisions of this section.

2.4.6.H **Preliminary Plan Review**

- (1) An applicant for major subdivision approval must file a complete application and preliminary subdivision plan for consideration by the Development Review Board.
- (2) The Development Review Board must hold a public hearing and act on a preliminary subdivision plan in accordance with Chapter 2.6.
- (3) The Development Review Board must issue a written decision on the preliminary plan that includes:
 - (a) Findings of fact that address each of the applicable criteria in Figure 2-01;
 - (b) Any conditions of approval;
 - (c) Any specific changes required in the final subdivision plan;
 - (d) The issues to be analyzed and addressed in the final subdivision application; and
 - (e) Any modification or waiver of application requirements for final plan review. The Development Review Board may:

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- (i) Request any additional application materials deemed necessary to determine compliance with these regulations; and
 - (ii) Modify or waive application requirements deemed unnecessary to determine compliance with these regulations.
- (4) If the Development Review Board approves the preliminary plan, the applicant will have 6 months from the date of the approval to file an application and final subdivision plan.

2.4.6.I Final Plan Review

- (1) The applicant must file a complete application and final subdivision plan for consideration by the Development Review Board.
- (2) The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and assure that the applicant has met all conditions the Development Review Board imposed on the preliminary plan.
- (3) The Development Review Board must hold a public hearing and act on a final subdivision in accordance with Chapter 2.6. If a proposed subdivision will be located within 500 feet of a municipal boundary, a copy of the hearing notice must be sent to the clerk of the adjoining municipality.
- (4) The Development Review Board's approval of a final plan will not constitute the municipality's acceptance of any road, easement, open space or other feature shown on the plan. Action by the Selectboard is required to accept any road, easement, open space or other feature.

2.4.6.J Filing Requirements

- (1) If the Development Review Board or Zoning Administrator approves a final plan, the applicant will have 180 days to submit a final subdivision plat for recording in the municipal land records. If the subdivision will be phased, the applicant must file a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the conditions of approval.
- (2) The Zoning Administrator may grant a 90-day extension to the filing deadline upon written request by the applicant if other local or state permits are still pending.
- (3) The final subdivision plat must meet the requirements of 27 V.S.A. Chapter 17.
- (4) The Zoning Administrator or the Chair of the Development Review Board must sign the final subdivision plat before it is recorded in the municipal land records.
- (5) No one may make any changes, erasures, modifications or revisions to a final plat after it has been signed.
- (6) Once properly filed, a final subdivision plat will not expire.

2.4.6.K Modification of Approved Subdivisions

- (1) The Development Review Board, or Zoning Administrator, for plats approved under section 2.4.6 E must review any request to amend an approved subdivision plat.
- (2) The process for applying for an amendment will be the same as for the original approval.

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- (3) The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plat affected by the proposed amendment.
- (4) The applicant must file an approved, amended plat in accordance with the provisions of Subsection 2.4.6.J.

2.4.7 COMBINED REVIEW

- 2.4.7.A When proposed development requires more than one approval, the Development Review Board must warn and hold a single hearing for the purpose of reviewing and acting on the application unless the applicant requests separate hearings for each approval.
- 2.4.7.B The Zoning Administrator will identify applications appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.
- 2.4.7.C The Development Review Board must hold a public hearing and act on an application for combined review in accordance with Chapter 2.5.5. In addition, the hearing notice must:
 - (1) Include a statement that the hearing will be a combined review of the proposed development; and
 - (2) List each type of review the Development Review Board will conduct.
- 2.4.7.D All hearing and decision requirements and deadlines applicable to each review process will apply.

2.4.8 AMENDING APPROVED PLANS

- 2.4.8.A The Development Review Board must review any request to amend an approved plan that the Zoning Administrator cannot approve under Section 2.3.4.
- 2.4.8.B The process for applying for an amendment will be the same as for the original approval.
- 2.4.8.C The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the approved development affected by the proposed amendment.
- 2.4.8.D The applicant must demonstrate that the proposed amendment is justified due to changes:
 - (1) In factual or regulatory circumstances that were beyond the applicant's control;
 - (2) In the construction or operation of the proposed development that were not reasonably foreseeable at the time of the original application; or
 - (3) In technology.
- 2.4.8.E The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated development approvals.

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2.4.8.F The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

Figure 2-01. **Development Review Criteria**

CRITERIA	SITE PLAN	CONDITIONAL USE	PUD OR SUBDIVISION
1 The dimensional standards of the proposed development conform to the standards of the applicable district or of Section 1.3.3if a pre-existing nonconformity.	✓	✓	✓
2 The off-site impacts of the proposed development will not exceed the levels established in Section *.	✓	✓	–
3 The proposed development will provide safe and adequate access and circulation that conforms to the standards of Sections * and *.	✓	✓	✓
4 The proposed development will provide sufficient parking and loading areas that conform to the standards of Section *.	✓	✓	–
5 The proposed development will provide exterior lighting where necessary for public safety and to facilitate nighttime use that conforms to the standards of Section *.	✓	✓	✓
6 The proposed development will include landscaping, screening and buffers to add visual appeal and mitigate off-site impacts that conform to the standards of Sections * and *.	✓	✓	✓
7 The proposed development will implement appropriate erosion control and stormwater management practices that conform to the standards of Sections * and *.	✓	✓	✓
8 Signs for the proposed development will conform to the standards of Section *.	✓	✓	✓
9 The proposed development will conform to municipal (or state, if applicable) specifications for construction of necessary improvements (roads, sidewalks, driveways, utilities, etc.), and to municipal (or state, if applicable) standards for emergency service access.	✓	✓	✓
10 The demand for water supply, wastewater, educational and municipal services to serve the proposed development will be reasonable and will not create an undue adverse effect upon the capacity existing or planned community facilities.	–	✓	✓
11 The proposed development will be compatible with and will not have undue adverse effects on the character of the area.	–	✓	✓
12 Traffic generated by the proposed development will not exceed the capacity of or create congestion or unsafe conditions on roads, highways and intersections in the area.	–	✓	✓
13 The proposed development will avoid, minimize and/or mitigate (listed in order of preference) undue adverse effects on significant natural resources and environmental quality.	–	✓	✓
14 The proposed development will logically extend existing settlement patterns and create interconnected road networks to the maximum extent feasible given the terrain and other characteristics of the land.	–	–	✓
15 The proposed development will be designed and laid out to make efficient use of land and to minimize the amount of roads and other infrastructure necessary to serve the lots.	–	–	✓
16 Lots within the proposed development will vary in size and frontage, and buildings will vary in design (form, style, color, materials, etc.) and placement, to replicate the settlement patterns of traditional neighborhoods (i.e., not a 'cookie-cutter' subdivision).	–	–	✓

2.5 Appeals

2.5.1 WHO MAY APPEAL

2.5.1.A An interested person may appeal an action taken or decision made under these regulations as specified in this chapter.

2.5.1.B For the purposes of these regulations, an interested person is:

- (1) An applicant who alleges that:
 - (a) These regulations impose unreasonable or inappropriate restrictions on the existing or future use of his/her property; or
 - (b) An action taken or decision made under these regulations with regard to his/her application is not in accord with the policies, purposes, or terms of these regulations or the *Waterbury Municipal Plan*, as most recently adopted.
- (2) Waterbury or any adjoining municipality.
- (3) A person owning or occupying property in the immediate neighborhood of proposed development who can demonstrate:
 - (a) A physical or environmental impact on his/her interests; and
 - (b) That the action taken or decision made under these regulations is not in accord with the policies, purposes, or terms of these regulations or the *Waterbury Municipal Plan*, as most recently adopted.
- (4) Any combination of at least 10 voters or landowners in Waterbury who by signed petition allege that:
 - (a) The relief an applicant is requesting under this chapter, or
 - (b) An action taken or decision made under these regulations is not in accord with the policies, purposes, or terms of these regulations or the *Waterbury Municipal Plan*, as most recently adopted.
- (5) Any department or administrative subdivision of the state that owns property or interest in property in Waterbury, and the Vermont Agency of Commerce and Community Development.

2.5.2 APPEALS OF ZONING ADMINISTRATOR DECISIONS

2.5.2.A Any interested person may appeal any action or decision of the Zoning Administrator to the Development Review Board by filing two copies of a notice of appeal and any applicable fees with the Waterbury Municipal Clerk within 15 days of the date of the Zoning Administrator's action or decision.

2.5.2.B The Municipal Clerk will forward one copy of the notice of appeal to the Development Review Board and the other to the Zoning Administrator.

2.5.2.C A notice of appeal must be in writing and must include the following information:

- (1) The name and address of the appellant (the person filing the appeal);

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- (2) A copy of the Zoning Administrator's decision or description of the action (if appealing a zoning permit, also include a copy of the permit application);
 - (3) A brief description of the subject property;
 - (4) A reference to the section(s) of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; and
 - (5) A statement of the relief, decision or action the appellant is requesting and why the appellant believes the requested relief, decision or action to be appropriate under the circumstances.
- 2.5.2.D If an appeal is filed by a group of interested persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.
- 2.5.2.E The appellant may request a stay of enforcement as part of the notice of appeal by including a sworn statement that irreparable damage will directly result if the Development Review Board does not grant the stay.
- 2.5.2.F Upon receipt of a complete notice of appeal, the Development Review Board must either:
 - (1) Hold a public hearing and act on the appeal in accordance with Chapter 2.6; or
 - (2) Reject the appeal without a hearing and render a decision within 10 days of the filing of the notice, if the Development Review Board determines that it decided the issues in an earlier appeal.
- 2.5.2.G An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Zoning Administrator.
- 2.5.2.H If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, the action or decision will not be able to be contested at a later time.
- 2.5.3 APPEALS OF DEVELOPMENT REVIEW BOARD DECISIONS**
- 2.5.3.A Any interested person who participated in a in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the board's action or decision.
- 2.5.3.B The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Zoning Administrator must provide a prospective appellant with the interested person list upon request.
- 2.5.3.C If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, the appeal of that approval will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved. An interested person cannot use the procedures of Section 2.5.2 to appeal the Zoning Administrator's issuance of a zoning permit implementing a Development Review Board approval.

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2.5.3.D An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.

2.5.3.E If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, all interested persons will be bound by that action or decision and will not be able to contest it at a later time.

2.5.4 WAIVERS

2.5.4.A The Development Review Board:

- (1) May approve waivers approve waivers that authorize an adjustment of up to 10% to a dimensional standard of these regulations.
- (2) Must not approve waivers to reduce any riparian or wetland setback or buffer required under these regulations.
- (3) Must not approve a waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

2.5.4.B The applicant must file a complete zoning permit application and a written request for a waiver with the Zoning Administrator that includes all of the following:

- (1) A brief description of the subject property and proposed development.
- (2) A reference to the dimensional standard(s) of these regulations that the applicant is requesting a waiver from.
- (3) The specific modification(s) that the applicant is requesting.
- (4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the waiver (see Figure 2-02).

2.5.4.C The Development Review Board must hold a public hearing and act on the waiver request in accordance with Chapter 2.6. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

2.5.4.D To approve a waiver, the Development Review Board must find that all of the applicable criteria specified in Figure 2-02 have been met.

2.5.5 VARIANCES

2.5.5.A The Development Review Board:

- (1) May approve variances that authorize adjustments to the dimensional standards of these regulations under the specific circumstances described in this section.
- (2) Must not approve a variance to allow a sign, prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

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- 2.5.5.B The applicant must file a complete zoning permit application and a written request for a variance with the Zoning Administrator that includes all of the following:
- (1) A brief description of the subject property and proposed development;
 - (2) A reference to specific provision(s) of these regulations that the applicant is requesting a variance from;
 - (3) The specific modification(s) that the applicant is requesting; and
 - (4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the variance (see Figure 2-02).
- 2.5.5.C The Development Review Board must hold a public hearing and act on the waiver request in accordance with Chapter 2.6. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.
- 2.5.5.D To approve a variance, the Development Review Board must find that all of the applicable criteria specified in Figure 2-02 have been met as follows:
- (1) If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply.
 - (2) If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply.
 - (3) For all other variances, the general variance criteria apply.
- 2.5.5.E If the Development Review Board approves a variance for development within the special flood hazard area, the written decision must state that *“Building a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums.”*

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Figure 2-02. **Waiver and Variance Review Criteria**

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 The proposed development will not alter the essential character of the area or district in which the property is located.	✓	✓	✓	✓
2 The proposed development will not substantially or permanently impair the lawful use or development of adjacent property.	✓	✓	✓	✓
3 The proposed development will not be detrimental to public health, safety or welfare.	✓	✓	✓	✓
4 The proposed development is beneficial or necessary for the continued reasonable use of the property.	✓	–	–	–
5 The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	✓	–	–	–
6 The applicant has not created the unnecessary hardship.	–	✓	✓	✓
7 The applicant is proposing the least deviation possible from these regulations that will afford relief.	–	✓	✓	✓
8 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. These conditions, and not the circumstances or conditions generally created by the provisions of this ordinance in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with this ordinance and a variance is necessary to enable reasonable use of the property.	–	✓	–	✓
9 The proposed development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	–	–	–	✓
9 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	–	–	✓	–
10 The proposed development will not reduce access to renewable energy resources on adjacent property.	–	–	✓	–
KEY	✓Applicable – Not Applicable			

2.6 Notice, Hearings and Decisions

2.6.1 NOTICE OF HEARING

2.6.1.A The Zoning Administrator must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision applications by all of the following:

- (1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Waterbury.
- (2) Posting the date, place and purpose of the hearing at the municipal offices and at least one other public place within Waterbury.
- (3) Providing the applicant with a sign with the date, place and purpose of the hearing to be posted on the subject property within public view.
 - (a) It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.

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- (4) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
 - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.
- 2.6.1.B The Zoning Administrator must notify the public at least 7 days before a hearing for any other Development Review Board actions under these regulations by all of the following:
 - (1) Posting the date, place and purpose of the hearing at the municipal offices and at least two other public places within Waterbury.
 - (2) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
 - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.
- 2.6.1.C A defect in the form or substance of the public notice requirements will not invalidate any action or decision under these regulations when a reasonable effort has been made to provide adequate posting and notice.
- 2.6.2 SITE VISITS**
- 2.6.2.A The Zoning Administrator or Development Review Board may require an applicant to grant them access to a site prior to making a decision on an application when deemed necessary to ensure compliance with these regulations.
- 2.6.2.B A site visit must be warned as a public meeting in accordance with Section 2.6.1 and open to the public if a quorum of Development Review Board members will be present.
- 2.6.3 CONDUCTING A HEARING AND TAKING EVIDENCE**
- 2.6.3.A The Development Review Board must hold a public hearing within 60 days of the Zoning Administrator determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.
- 2.6.3.B The Development Review Board must conduct public hearings, hear testimony and take evidence according to its adopted rules of procedures.
- 2.6.3.C All hearings must be open to the public as follows:
 - (1) Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel, or may submit written testimony in advance of the hearing.
 - (2) The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.

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2.6.3.D The applicant or an authorized representative must be present at any public hearing when the Development Review Board will be considering his/her application.

- (1) The Development Review Board will continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
- (2) In the case of such a continuation, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.

2.6.3.E Development Review Board members must not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed hearing.

2.6.4 RECESSING A HEARING

2.6.4.A The Development Review Board may recess a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.

2.6.4.B If the Development Review Board recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.

2.6.5 DECISIONS

2.6.5.A **Deliberations.** The Development Review Board must deliberate and make a decision on an application in a closed deliberative session.

2.6.5.B **Time to Act.** The Development Review Board must issue a written decision to approve, approve with conditions or deny the application within 45 days of closing a hearing.

2.6.5.C **Deemed Approval.** If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board's failure to act resulted in a "deemed approval" of the application.

2.6.5.D **Findings.** The written decision must include a statement of the facts upon which the Development Review Board is basing its decision and a statement of conclusions relating to the applicable review criteria and standards of these regulations.

2.6.5.E **Conditions of Approval.** The Development Review Board:

- (1) May attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:
 - (a) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
 - (b) Required improvements to public facilities or infrastructure to serve the proposed development;
 - (c) Schedule or phasing of development;
 - (d) Inspection or monitoring; and/or

- (e) Performance bonds.
 - (2) May limit the density or intensity of development to less than the maximum allowed under these regulations when deemed necessary to achieve the purposes of these regulations.
 - (3) Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board's approval will be considered part of any subsequent zoning permit issued by the Zoning Administrator for the approved development.
- 2.6.5.F **Submittal of Revised Plans.** If the Development Review Board attaches conditions on an approval that require amendments to a plan, the applicant must submit an amended plan that satisfies those conditions prior to Zoning Administrator issuing a zoning permit for the proposed development.
- 2.6.5.G **Notification and Filing.** The Development Review Board must:
- (1) Send a copy of the decision to applicant by certified mail;
 - (2) Send a copy of the decision to all others who participated in the hearing; and
 - (3) File a copy of the decision with the Zoning Administrator.
- 2.6.5.H **Effect and Expiration.** If the approved development is:
- (1) Not substantially completed or commenced before the zoning permit expires as established in Subsection 2.3.3.C, the development approval will expire with the zoning permit.
 - (2) Substantially completed or commenced before the zoning permit expires as established in Subsection 2.3.3.C, the development approval will remain in effect unless the use is abandoned or discontinued as established in Section 1.3.4. Development Review Board approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership.

2.7 Enforcement

2.7.1 APPLICABILITY

- 2.7.1.A The Zoning Administration must act to enforce these regulations in accordance with state law and the provisions of this chapter.
- 2.7.1.B A violation of these regulations will constitute a civil offense enforced in accordance with the provisions of 24 VSA §1974(a) or 24 VSA §4451.
- 2.7.1.C Nothing in this chapter will prevent Waterbury from exercising its authority to abate or remove public health risks or hazards.

2.7.2 INVESTIGATION AND ACTION BY THE ZONING ADMINISTRATOR

2.7.2.A Investigation. The Zoning Administrator must investigate alleged violations of these regulations. Violations include, but are not limited to:

- (1) Commencing land development for which zoning permit or development approval is required without first obtaining such an approval or permit;
- (2) Failing to comply with all requirements, representations and conditions of any approved plan or permit;
- (3) Commencing or continuing land development if the permit or approval authorizing the work has expired; and
- (4) Selling, transferring or offering to sell or transfer land unless a subdivision plat has been approved and filed in full compliance with these regulations.

2.7.2.B Action. Upon determining that a violation exists, the Zoning Administrator must take appropriate action in an effort to enforce these regulations including, but not limited to any combination of the following:

- (1) Issuing a municipal civil complaint ticket (see Section 2.7.4) or a notice of violation (see Section 2.7.5);
- (2) Issuing a stop work order;
- (3) Requiring the property owner to apply for a curative zoning permit;
- (4) Requiring the immediate removal of a violating structure or cessation of a violating use;
- (5) Denying a certificate of compliance; and/or
- (6) Imposing fines and penalties to the maximum extent allowed under state law until the property owner remedies the violation.

2.7.2.C Limitations on Enforcement. The Zoning Administrator must not enforce any violation:

- (1) That has existed for more than 15 years; or
- (2) Of a zoning permit that was issued after July 1, 1998 and was not filed in the municipal land records.

2.7.3 LIABILITIES AND PENALTIES

2.7.3.A The property owner will be held responsible for any violation and be subject to any penalties imposed under these regulations. In addition to the property owner, the Zoning Administrator may also take enforcement action against any other responsible party (ex. tenant or contractor) who violates these regulations.

2.7.3.B Each day that a violation exists constitutes a separate offense.

2.7.3.C If any enforcement action results in the need for a new or amended zoning permit or development approval, Waterbury may impose penalties in addition to the standard permit fees.

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2.7.4 MUNICIPAL CIVIL COMPLAINT TICKET

2.7.4.A The Zoning Administrator may issue a municipal complaint ticket for any violation of these regulations in accordance with the Judicial Bureau's procedure for municipal complaint tickets.

2.7.4.B A violation ticketed under this section will be punishable by a fine of:

- (1) \$100 for a first offense, with a waiver fee of \$50.
- (2) \$450 for a second offense ticketed for the same violation within 1 year, with a waiver fee of \$200.
- (3) \$800 for a third and any subsequent offense ticketed for the same violation within one year, with a waiver fee of \$400.

2.7.4.C Upon the fourth offense, Waterbury may request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

2.7.5 NOTICE OF VIOLATION

2.7.5.A The Zoning Administrator may issue a notice of violation for any violation of these regulations.

2.7.5.B The Zoning Administrator must:

- (1) Send a notice of violation to the property owner and any other responsible parties by certified mail that:
 - (a) Describes the violation;
 - (b) Identifies the specific provision(s) of these regulations being violated;
 - (c) States the specific action required to cure the violation;
 - (d) States that if the violation is not cured within 7 days, the municipality may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
 - (e) States that further enforcement may occur without notice and an opportunity to cure if the violation occurs again within the next 12 months; and
 - (f) States that the notice of violation may be appealed as per Section 2.5.2.
- (2) Deliver a copy of a notice of violation to the Municipal Clerk for recording in the municipal land records.

2.7.5.C Upon failure of the property owner or other responsible party to cure a violation of these regulations, Waterbury may institute appropriate court action.

3 ZONING DISTRICTS

3.1 General Provisions

3.1.1 ESTABLISHMENT OF BASE ZONING DISTRICTS

3.1.1.A These regulations establish the following base zoning districts as shown on the Official Zoning Map:

- (1) Downtown (DWN)
- (2) Mixed Use (MU)
- (3) Residential 10 (R-10)
- (4) Residential 5 (R-5)
- (5) Institutional (IT)
- (6) Commercial-Industrial (CI)
- (7) Tourism Business (TB)
- (8) Residential 1 (R-1)
- (9) Rural (RL)
- (10) Conservation (CN)

3.1.2 ESTABLISHMENT OF OVERLAY ZONING DISTRICTS

3.1.2.A These regulations establish the following overlay zoning districts as shown on the Official Zoning Map:

- (1) Design Review Overlay (DRO)
- (2) Uplands Overlay (UPO)
- (3) Flood Hazard (FHO)

3.1.3 OFFICIAL ZONING MAP

3.1.3.A The maps delineating the boundaries of the various base and overlay zoning districts established in this chapter are incorporated by reference and adopted as part of these regulations, and they constitute Waterbury's Official Zoning Map.

3.1.3.B The Official Zoning Map is on file in the Waterbury Zoning and Planning Department office. The small-scale, unofficial versions of the maps included in these regulations are for convenience only. The Official Zoning Map must be used for all measurements and interpretations of the district boundaries.

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3.1.4 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

3.1.4.A If a specific distance or measurement is not shown on the Official Zoning Map, the Zoning Administrator will interpret the map boundaries in accordance with the following:

- (1) Boundaries indicated as approximately following roads, railroad lines, power lines or rights-of-way will be assumed to follow the centerlines of such roads, railroad lines, power lines or rights-of-way.
- (2) Boundaries indicated as approximately following lot lines or municipal boundaries will be assumed to follow those lines or boundaries.
- (3) Boundaries indicated as approximately following rivers, streams, or water bodies will be assumed to follow the centerlines of such rivers, streams, or water bodies.
- (4) Zoning districts will include any land under rivers, streams, or water bodies lying within them.

3.1.4.B The Zoning Administrator will interpret any of the features listed in Subsection 3.1.4.A to be located where they exist on the ground or as shown on a survey at the time of the interpretation if they vary from their depiction on the Official Zoning Map except that:

- (1) A lot merger, boundary line adjustment or subdivision that changes the location of a lot line will not change the location of any zoning district boundary indicated as following that lot line.

3.1.5 USE STANDARDS

3.1.5.A **Allowed Uses.** As established in Subsection 1.2.2.A, the permitted or conditional uses allowed in each district are identified and defined in Section 3.3.1.

3.1.5.B **Prohibited Uses.** A use not specifically listed as permitted or conditional in a zoning district is prohibited in that zoning district unless the applicant demonstrates to the Zoning Administrator that the unlisted use:

- (1) Is materially similar to a use that is permitted or conditional in the same zoning district in accordance with Paragraph 3.1.5.C; or
- (2) Is required to be allowed in a zoning district by state or federal law.

3.1.5.C **Materially Similar Uses.** The Zoning Administrator may make a written determination that a proposed use, which is not allowed in any zoning district under these regulations, is materially similar to a use listed as permitted or conditional in the applicable zoning district and that it should be allowed to the same extent and subject to the same standards as that permitted or conditional use if it has:

- (1) Similar impacts on the neighborhood such as traffic, noise and lighting as that listed use; and
- (2) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips and signage as that permitted or conditional use.

3.1.5.D **Multiple and Mixed Uses.** A landowner may use a structure for any combination of uses allowed in the applicable zoning district upon obtaining all necessary permits or approvals under these regulations.

3.1.5.E **Accessory Uses.** A landowner may establish accessory uses on a lot in accordance with the standards below and upon obtaining all necessary permits or approvals under these regulations:

- (1) The total area occupied by accessory uses must not exceed 40% of the total area occupied by the associated principal use. For principal uses conducted primarily indoors, this calculation will be based on total gross floor area. For principal uses conducted primarily outdoors, this calculation will be based on total lot area.
- (2) An accessory use must be a permitted or conditional use in the applicable zoning district, or it must be specifically authorized as an allowed accessory use to the applicable principal use in these regulations.
- (3) The standards of this subsection do not apply to accessory dwellings, home occupations, home businesses, family childcare homes and bed-and-breakfasts.

3.1.6 **DIMENSIONAL STANDARDS**

3.1.6.A **Applicability.** Development must conform to the dimensional standards for the applicable zoning district unless:

- (1) A subject lot or structure is a nonconformity and the proposed development is in conformance with the requirements of Section 1.3.3;
- (2) The applicant obtains a waiver under Section 2.5.4 or variance under Section 2.5.5 from the Development Review Board; or
- (3) The proposed development will be approved as a planned unit development in accordance with Chapter 4.5.

3.1.6.B **Principal Buildings.** Landowners may locate more than one principal building on a lot in accordance with the standards below and upon obtaining all necessary permits or approvals under these regulations:

- (1) The total amount of development on the lot must not exceed the maximum density allowed in the applicable zoning district.
- (2) There must not be more than 1 single- or two-family dwelling on any lot unless approved as part of a planned unit development in accordance with Chapter 4.5.
- (3) Each principal building must meet the applicable dimensional standards of the zoning district.
- (4) The distance between new principal buildings or between a new principal building and an existing principal building must not be less than twice the side setback required in the applicable zoning district, unless they are attached.
- (5) Approval of multiple principal buildings on a lot will not constitute a right to separately convey those structures unless:
 - (a) The subject lot will be lawfully subdivided in accordance with the provisions of these regulations.
 - (b) The buildings will be lawfully converted to condominium ownership, which may include the subdivision of footprint lots.

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3.1.6.C **Accessory Structures.** Landowners may locate accessory structures on a lot in accordance with the standards below and upon obtaining all necessary permits or approvals under these regulations:

- (1) Unless otherwise specified in these regulations, accessory structures must meet the front setback requirements for the applicable zoning district.
- (2) Unless otherwise specified in these regulations, accessory structures:
 - (a) With a footprint of not more than 120 square feet and a height of not more than 12 feet must be set back at least 10 feet from rear and side property lines, or the minimum setback requirements for the district they are located, whichever is less.
 - (b) With a footprint in excess of 120 square feet or a height in excess of 12 feet must meet the minimum setback requirements for the applicable zoning district.
- (3) Accessory structures must be located at least 8 feet from any other structure unless they are attached to that structure.
- (4) Unless otherwise specified in these regulations, accessory structures must not exceed a maximum height of 36 feet, the maximum building height in the applicable district or the height of the associated principal building, whichever is less.

3.1.6.D **Lot Size.** Lot size will be regulated in accordance with the following:

- (1) Any lot created under these regulations must meet the minimum lot size requirement for the applicable zoning district unless approved as part of a planned unit development in accordance with Chapter 4.5.
- (2) A pre-existing small lot may be developed in accordance with Paragraph 1.3.3.C(3) irrespective of whether it will comply with the minimum lot size standard for the applicable zoning district.
- (3) An existing lot must not be reduced in size below the minimum lot size requirement for the applicable zoning district unless the reduction is the result of land being acquired for a public purpose (ex. road widening).
- (4) Land that is not developable as a condition of a lawfully established right-of-way or easement must not be included when calculating lot size.
- (5) Land within a single parcel that is divided by a public road will be considered separate lots for the purposes of these regulations.
- (6) A lot that will include land in more than one zoning district must meet the minimum lot size requirement for the zoning district that the portion of the lot with road frontage is located in. If the lot has road frontage in more than one zoning district, the lot must meet the largest minimum lot size requirement.

3.1.6.E **Lot Frontage.** All lots must have the minimum frontage on a public or private road required for the applicable zoning district in accordance with the following:

- (1) **Pre-Existing Lots.** An existing lot without the minimum required frontage on a maintained public or private road must have access to such a road over a permanent easement or right-of-way not less than 30 feet wide for single- and two-family residential lots and 50 feet wide for all other lots. Also see Paragraph 1.3.3.C(4).

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- (2) **Corner Lots.** Lots that front on more than one road will only be required to meet minimum frontage requirements on the road from which the lot will be accessed.
- (3) **New Lots.** All new lots created under these regulations must have the minimum frontage on a maintained public or private road unless the Development Review Board:
 - (a) Approves a lot with less frontage as part of a planned unit development in accordance with Chapter 4.5;
 - (b) Approves a waiver to reduce the frontage requirement to not less than 30 feet for irregularly shaped lots or lots accessed by a shared driveway; or
 - (c) Approves a waiver to reduce or eliminate the frontage requirement for lots restricted to agriculture, forestry or open spaces uses through a legally enforceable and permanent means such as a conservation easement.

3.1.6.F Setbacks. Development must meet applicable setback requirements as follows:

- (1) All development and structures subject to these regulations must be set back from roads and property lines as required for the applicable zoning district.
- (2) Lots with frontage on more than one road must meet front setback requirements on each road and must meet side setback requirements on the remaining sides.
- (3) Setback requirements will apply to lots in common ownership to the same extent as if the lots were not in common ownership.
- (4) Front setbacks will be measured from the edge of the right-of-way except:
 - (a) If the right-of-way is less than 50 feet or if the location of the right-of-way is uncertain, the front setback will be measured from a line 25 feet from and parallel with the centerline of the road.

3.1.6.G Height. Structures must meet height standards for the applicable district as specified below:

- (1) Height limits do not apply to:
 - (a) Belfries, spires, steeples, cupolas, domes or similar architectural features not used for human habitation; and
 - (b) Skylights, parapet walls, cornices, chimneys, ventilators, bulkheads, or mechanical equipment usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- (2) Height limits do apply to flag poles, light poles, signs and similar freestanding structures not located within public rights-of-way.
- (3) Where a minimum building height is specified:
 - (a) Buildings with a footprint of 6,000 square feet or less must maintain that height along the entire facade and for a depth of at least 30 feet or the depth of building, whichever is less.
 - (b) Buildings with a footprint of more than 6,000 square feet must maintain that height along at least 50% of the facade and for a depth of at least 30 feet or the depth of the building, whichever is less.
- (4) Height will be measured from the average finished grade at ground level to the highest portion of the structure excluding the building elements listed in Paragraph (1) above.

3.1.7 DENSITY STANDARDS

- 3.1.7.A The number of dwelling units on a lot must not exceed the maximum density specified in the applicable zoning district except that accessory dwellings approved under Section 4.2.1 will not count as a dwelling unit for the purposes of calculating density.
- 3.1.7.B On mixed-use lots, the lot area used to meet the density requirement for one or more dwelling units must not be used to meet the density requirement for any other principal use.
- 3.1.7.C A pre-existing small lot may be developed in accordance with Paragraph 1.3.3.C(3) irrespective of whether it will comply with the density standards for the applicable district.

3.2 Base Zoning Districts

3.2.1 DOWNTOWN (DWN)

- 3.2.1.A **Purpose.** The Downtown zoning district provides concentrated retail, service, office, upper floor housing and other compatible mixed uses in Waterbury's historic downtown. It is the intent of this district to maintain or enhance the traditional pattern, scale, massing, pedestrian orientation and quality of the built environment in downtown Waterbury.

- 3.2.1.B **Permitted Uses.** The following are permitted uses in the Downtown zoning district:

Residential	Industrial
(1) Single-family dwelling	(17) Light industry, enclosed, up to 5,000 sf
(2) Two-family dwelling	(18) Food or beverage manufacturing, enclosed, up to 10,000 sf
(3) Three- or four-family dwelling	(19) Passenger transportation services
(4) Multi-family dwelling	(20) Media recording or broadcasting studio
	(21) Communications antenna
Lodging	Art, Entertainment and Recreation
(5) Inn	(22) Performance theater
(6) Hotel or motel	(23) Movie theater
Commercial	(24) Artist gallery or studio, up to 2,000 sf
(7) Retail sales, up to 2,000 sf	(25) Museum
(8) Open market or auction house	(26) Indoor recreation, up to 2,000 sf
(9) Food or beverage store, up to 2,000 sf	(27) Fitness club or gym
(10) Convenience store, up to 2,000 sf	(28) Public outdoor recreation or park
(11) Financial establishment	
(12) Rental and leasing, up to 2,000 sf	Civic and Community
(13) Office, professional, business or administrative services	(29) Government facility
(14) Personal services, up to 2,000 sf	(30) Educational institution
(15) Restaurant, up to 2,000 sf	(31) Specialty school, indoor, up to 5,000 sf
(16) Bar	(32) Child day care
	(33) Social assistance and charitable services
	(34) Religious institution
	(35) Funeral and cremation services
	(33) Social club

3.2.1.C Conditional Uses. The following are conditional uses in the Downtown zoning district:

Commercial	Industrial
(1) Retail sales, more than 2,000 sf	(8) Wholesale trade
(2) Food or beverage store, more than 2,000 sf	(9) Storage and distribution services, enclosed
(3) Convenience store, more than 2,000 sf	(10) Publishing, printing and sign manufacturing
(4) Personal services, more than 2,000 sf	(11) Information services
(5) Restaurant, more than 2,000 sf	
(6) Nightclub	Art, Entertainment and Recreation
(7) Event facility	(12) Artist gallery or studio, more than 2,000 sf
	(13) Indoor recreation, more than 2,000 sf
	Civic and Community
	(14) Clinic or outpatient care services

3.2.1.D Dimensional Standards. The following standards apply in the Downtown zoning district:

Lots	
(1) Lot size:	2,000 sf min
(2) Lot frontage:	30 ft min
(3) Lot coverage:	90% max
Setbacks	
(4) Front:	0 ft min
(5) Side:	0 ft min
(6) Rear:	0 ft min
Buildings	
(7) Build-to-line:	8 ft
(8) Build-to-line coverage:	80% min
(9) Principal building height:	24 ft min
(10) Structure height:	60 ft max
Density	
(10) Dwelling units:	no min or max
(11) All other principal uses:	1 principal use per 2,000 square feet of lot area max

3.2.1.E District Standards. The following standards apply in the Downtown zoning district:

- (1) Dwelling units are prohibited on the ground floor.
- (2) Food service drive-throughs are prohibited. All other drive-throughs may only be located at the rear of the building and will require conditional use approval.

3.2.2 MIXED USE (MU)

3.2.2.A **Purpose.** The Mixed Use zoning district accommodates a mix of housing and small-scale service, office, retail and other compatible uses in Waterbury's traditional centers. It is the intent of this district to maintain or enhance a traditional village character, pattern, scale, massing and pedestrian orientation, and to provide neighborhoods that offer a desirable quality of life.

3.2.2.B **Permitted Uses.** The following are permitted uses in the Mixed Use zoning district:

Residential (1) Single-family dwelling (2) Two-family dwelling (3) Three- or four-family dwelling (4) Multi-family dwelling (5) Accessory dwelling (6) Home occupation (8) Home business (9) Family childcare home (10) Senior housing (11) Assisted living (12) Skilled nursing service (13) Group home Lodging (14) Bed and breakfast (15) Inn (16) Rooming and boarding house (17) Short-term rental Commercial (18) Retail sales, up to 2,000 sf (19) Repair service, small goods, up to 2,000 sf (20) Food or beverage store, up to 2,000 sf (21) Convenience store, up to 2,000 sf (22) Financial establishment (23) Rental and leasing, small goods, up to 2,000 sf (24) Office, professional, business or administrative services, up to 2,000 sf	Commercial (con't) (25) Personal services, up to 2,000 sf (26) Veterinary, pet or animal services, up to 2,000 sf (27) Restaurant, sit-down (28) Catering or commercial kitchen Industrial (29) Media recording or broadcast studio (30) Communications antenna Arts, Entertainment and Recreation (31) Artist gallery or studio, up to 2,000 sf (32) Indoor recreation, up to 2,000 sf (33) Fitness club or gym (34) Public outdoor recreation or park Civic and Community (35) Government facility (36) Educational institution (37) Specialty school, indoor and up to 2,000 sf (38) Child daycare (39) Social assistance and charitable services (40) Religious institution (41) Funeral and cremation services (42) Social club
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3.2.2.C Conditional Uses. The following are conditional uses in the Mixed Use zoning district:

Residential	Industrial (con't)
(1) Emergency housing	(9) Passenger transportation services
	(10) Information services
Lodging	Arts, Entertainment, Recreation
(2) Hotel or motel	(11) Performance theater
	(12) Movie theater
Commercial	(13) Artist gallery or studio, more than 2,000 sf
(3) Restaurant, take-out	(14) Museum
(4) Mobile food service	(15) Indoor recreation, more than 2,000 sf
(5) Bar	
(6) Event facility	Civic and Community
Industrial	(16) Clinic or outpatient care services
(7) Wholesale trade	(17) Rehabilitation services or residential treatment facility
(8) Storage and distribution services, enclosed	

3.2.2.D Dimensional Standards. The following standards apply in the Mixed Use zoning district:

Lots	
(1) Lot size:	4,000 sf min
(2) Lot frontage:	30 ft min
(3) Lot coverage:	90% max
Setbacks	
(4) Front:	0 ft min
(5) Side:	4 ft min
(6) Rear:	8 ft min
Buildings	
(7) Build-to-line:	16 ft
(8) Build-to-line coverage:	60% min
(9) Principal building height:	18 ft min
(10) Structure height:	48 ft max
Density	
(10) Dwelling units:	1 dwelling unit per 2,000 sf of lot area max
(11) All other principal uses:	1 principal use per 4,000 square feet of lot area max

3.2.2.E District Standards. The following standards apply in the Mixed Use zoning district:

- (1) Food service drive-throughs are prohibited. All other drive-throughs may only be located at the rear of the building and will require conditional use approval.

3.2.3 RESIDENTIAL 10 (R-10)

3.2.3.A **Purpose.** The Residential 10 zoning district provides for residential uses in areas served by public infrastructure within existing centers. It is the intent of this district to promote a variety of housing types in neighborhoods that offer a desirable quality of life.

3.2.3.B **Permitted Uses.** The following are permitted uses in the Residential 10 zoning district:

Residential	Lodging
(1) Single-family dwelling	(9) Bed and breakfast
(2) Two-family dwelling	(10) Rooming and boarding house
(3) Three- or four-family dwelling	(11) Short-term rental
(4) Accessory dwelling	
(5) Home occupation	Industrial
(6) Family childcare home	(12) Communications antenna
(7) Senior housing	
(8) Group home	Arts, Entertainment and Recreation
	(13) Public outdoor recreation or park

3.2.3.C **Conditional Uses.** The following are conditional uses in the Residential 10 zoning district:

Residential	Arts, Entertainment, Recreation
(1) Multi-family dwelling	(7) Museum
(2) Home business	(8) Fitness club or gym
(3) Assisted living	
(4) Skilled nursing services	Civic and Community
(5) Emergency housing	(9) Government facility
	(10) Educational institution
Lodging	(11) Religious institution
(6) Inn	

3.2.3.D **Dimensional Standards.** The following standards apply in the Residential 10 zoning district:

Lots	
(1) Lot size:	4,000 sf min
(2) Lot frontage:	45 ft min
(3) Lot coverage:	80% max
Setbacks	
(4) Front:	12 ft min
(5) Side:	8 ft min
(6) Rear:	12 ft min
Buildings	
(7) Principal building footprint:	6,000 sf max
(8) Structure height:	36 ft max
Density	
(10) Dwelling units:	1 dwelling unit per 4,000 sf of lot area max
(11) All other principal uses:	1 principal use per 4,000 square feet of lot area max

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3.2.4 RESIDENTIAL 5 (R-5)

3.2.4.A **Purpose.** The Residential 5 zoning district provides for residential uses in areas served by public infrastructure near existing centers. It is the intent of this district to promote a variety of housing types in neighborhoods that offer a desirable quality of life.

3.2.4.B **Permitted Uses.** The following are permitted uses in the Residential 5 zoning district:

Residential	Lodging
(1) Single-family dwelling	(9) Bed and breakfast
(2) Two-family dwelling	(10) Rooming and boarding house
(3) Three- or four-family dwelling	(11) Short-term rental
(4) Accessory dwelling	
(5) Home occupation	Industrial
(6) Family childcare home	(12) Communications antenna
(7) Senior housing	
(8) Group home	Arts, Entertainment and Recreation
	(13) Public outdoor recreation or park

3.2.4.C **Conditional Uses.** The following are conditional uses in the Residential 5 zoning district:

Residential	Arts, Entertainment, Recreation
(1) Multi-family dwelling	(7) Museum
(2) Home business	(8) Fitness club or gym
(3) Assisted living	
(4) Skilled nursing services	Civic and Community
(5) Emergency housing	(9) Government facility
	(10) Educational institution
	(11) Religious institution
Lodging	
(6) Inn	

3.2.4.D **Dimensional Standards.** The following standards apply in the Residential 5 zoning district:

Lots	
(1) Lot size:	8,000 sf min
(2) Lot frontage:	60 ft min
(3) Lot coverage:	70% max
Setbacks	
(4) Front:	16 ft min
(5) Side:	12 ft min
(6) Rear:	16 ft min
Buildings	
(7) Principal building footprint:	6,000 sf max
(8) Structure height:	36 ft max
Density	
(10) Dwelling units:	1 dwelling unit per 8,000 sf of lot area max
(11) All other principal uses:	1 principal use per 8,000 square feet of lot area max

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3.2.5 INSTITUTIONAL (IT)

3.2.5.A **Purpose.** The Institutional zoning district encompasses and accommodates the particular needs of the State Office Complex. It is the intent of this district to maintain and enhance the distinctive historic character, architectural quality and pedestrian-orientation of the campus, as well as its role as an employment center in downtown Waterbury.

3.2.5.B **Permitted Uses.** The following are permitted uses in the Institutional zoning district:

Residential (1) Skilled nursing service	Arts, Entertainment, Recreation (6) Museum (7) Public outdoor recreation or park
Commercial (2) Financial establishment (3) Office, professional, business or administrative services (4) Event facility	Civic and Community (8) Government facility (9) Educational institution (10) Specialty school (11) Clinic or outpatient care services (12) Child daycare (13) Social assistance and charitable services (14) Religious institution
Industrial (5) Communications antenna	

3.2.5.C **Conditional Uses.** The following are conditional uses in the Institutional zoning district:

Residential (1) Multi-family dwelling (2) Assisted living	Civic and Community (3) Hospital or inpatient care services (4) Rehabilitation services or residential treatment facility
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3.2.5.D **Dimensional Standards.** The following standards apply in the Institutional zoning district:

Lots (1) Lot size: (2) Lot frontage: (3) Lot coverage:	n/a n/a 60% max for the campus as a whole
Setbacks (4) Exterior: (5) Interior:	20 ft min from any lot lines around the outer perimeter of the campus 0 ft min from any interior lot lines within the campus
Buildings (9) Principal building height: (10) Structure height:	24 ft min 48 ft max
Density (10) Dwelling units: (11) All other principal uses:	no min or max no min or max

3.2.6 COMMERCIAL-INDUSTRIAL (CI)

3.2.6.A **Purpose.** The Commercial-Industrial zoning district provides for a mix of industrial, office, service and retail uses in areas served by existing or planned infrastructure. It is the intent of this district to promote growth and diversification of Waterbury's economy by offering suitable locations for new or expanded businesses.

3.2.6.B **Permitted Uses.** The following are permitted uses in the Commercial-Industrial zoning district:

Commercial	Industrial (con't)
(1) Sales lot	(19) Media recording or broadcasting studio
(2) Repair service	(20) Communications antenna
(3) Lawn, garden, farm supply sales	(21) Information services
(4) Lumberyard and building supply sales	(22) Metal fabrication shop, enclosed
(5) Open market or auction house	(23) Sawmill
(6) Financial establishment	
(7) Rental and leasing	Arts, Entertainment, Recreation
(8) Office, professional, business or administrative services	(24) Artist gallery or studio
(9) Veterinary, pet or animal services	(25) Indoor recreation
(10) Building or property maintenance services	(26) Fitness club or gym
(11) Catering or commercial kitchen	(27) Commercial outdoor recreation, passive
	(28) Public outdoor recreation or park
Industrial	Civic and Community
(12) Light industry, enclosed, up to 5,000 sf	(29) Government facility
(13) Food or beverage manufacturing, enclosed, up to 10,000 sf	(30) Specialty school, indoor and up to 5,000 sf
(14) Wholesale trade	(31) Clinic or outpatient care services
(15) Storage and distribution services, enclosed	(32) Child daycare
(16) Self-storage services	(33) Social assistance and charitable services
(17) Passenger transportation services	(34) Religious institution
(18) Publishing, printing and sign manufacturing	(35) Funeral and cremation services
	Natural Resource Based
	(36) Firewood processing

3.2.6.C **Conditional Uses.** The following are conditional uses in the Commercial-Industrial zoning district:

Commercial	Industrial
(1) Retail sales, more than 2,000 sf	(7) Light industry, enclosed, more than 5,000 sf
(2) Fueling station	(8) Food or beverage manufacturing, enclosed, more than 10,000 sf
(3) Carwash	(9) Tank farm or fuel storage and distribution services
(4) Food or beverage store, more than 2,000 sf	(10) Freight transportation services
(5) Convenience store	(11) Contractor's yard or unenclosed storage
(6) Mobile food service	
	Civic and Community
	(12) Specialty school, outdoor or more than 5,000 sf

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3.2.6.D **Dimensional Standards.** The following standards apply in the Commercial-Industrial zoning district:

Lots		
(1)	Lot size:	10,000 sf min
(2)	Lot frontage:	60 ft min
(3)	Lot coverage:	80% max
Setbacks		
(4)	Front:	16 ft min
(5)	Side:	12 ft min or 20 ft min if abutting a residential lot or district
(6)	Rear:	12 ft min or 20 ft min if abutting a residential lot or district
Buildings		
(7)	Structure height:	36 ft max
Density		
(8)	Principal uses:	1 principal use per 10,000 square feet of lot area max

3.2.6.E **District Standards.** The following standards apply in the Commercial-Industrial zoning district:

- (1) Food service drive-throughs are prohibited. All other drive-throughs may only be located at the rear of the building and will require conditional use approval.

3.2.7 TOURISM BUSINESS (TB)

3.2.7.A **Purpose.** The Tourism Business zoning district provides for a mix of lodging, dining, retail, recreation, service, office and industrial uses along major travel corridors. It is the intent of this district to promote new and expanded businesses in Waterbury that attract visitors, particularly those that strengthen Waterbury's role a destination for culinary tourism.

3.2.7.B **Permitted Uses.** The following are permitted uses in the Tourism Business zoning district:

Residential		Industrial
(1)	Single-family dwelling	(23) Light industry, enclosed, up to 5,000 sf
(2)	Two-family dwelling	(24) Food or beverage manufacturing, enclosed, up to 10,000 sf
(3)	Accessory dwelling	(25) Media recording or broadcasting studio
(4)	Home occupation	(26) Communications antenna
(5)	Home business	
(6)	Family childcare home	
Lodging		Arts, Entertainment, Recreation
(7)	Bed-and-breakfast	(27) Performance theater
(8)	Inn	(28) Artist gallery or studio
(9)	Short-term rental	(29) Museum
(10)	Hotel or motel	(30) Indoor recreation
		(31) Fitness club or gym
		(32) Commercial outdoor recreation
		(33) Public outdoor recreation or park
		(34) Golf course or country club
		(35) Campground
		(36) Equestrian facility
Commercial		Civic and Community
(11)	Retail sales, up to 2,000 sf	
(12)	Lawn, garden and farm supply sales	
(13)	Food or beverage store, up to 2,000 sf	
(14)	Convenience store, up to 2,000 sf	
(15)	Rental and leasing, small goods, up to 2,000 sf	

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(16) Personal service, up to 2,000 sf	(37) Government facility
(17) Veterinary, pet or animal service, up to 2,000 sf	(38) Specialty school, indoor, up to 5,000 sf
(18) Restaurant	(39) Religious institution
(19) Mobile food service	
(20) Bar	Natural Resource Based
(21) Event facility	(40) Farming or forestry
(22) Catering or commercial kitchen	(41) On-farm business

3.2.7.C **Conditional Uses.** The following are conditional uses in the Tourism Business zoning district:

Commercial	Industrial
(1) Retail sales, more than 2,000 sf	(11) Light industry, enclosed, more than 5,000 sf
(2) Fueling station	(12) Food or beverage manufacturing, enclosed, more than 10,000 sf
(3) Carwash	(13) Sawmill
(4) Open market or auction house	(14) Passenger transportation services
(5) Food or beverage store, more than 2,000 sf	(15) Publishing, printing and sign manufacturing
(6) Convenience store, more than 2,000 sf	
(7) Rental and leasing, vehicles, large goods or more than 2,000 sf	Civic and Community
(8) Personal service, more than 2,000 sf	(16) Educational institution
(9) Veterinary, pet or animal service, more than 2,000 sf	(17) Specialty school, outdoor or more than 5,000 sf
(10) Nightclub	(18) Social club
	Natural Resource Based
	(19) Firewood processing

3.2.7.D **Dimensional Standards.** The following standards apply in the Tourism Business zoning district:

Lots	
(1) Lot size:	20,000 sf min
(2) Lot frontage:	90 ft min
(3) Lot coverage:	60% max
Setbacks	
(4) Front:	20 ft min
(5) Side:	12 ft min or 20 ft min if abutting a residential lot or district
(6) Rear:	12 ft min or 20 ft min if abutting a residential lot or district
Buildings	
(7) Principal building height:	18 ft min
(8) Structure height:	36 ft max
Density	
(9) Residential density:	1 dwelling unit per 20,000 sf of lot area max
(10) All other principal uses:	1 principal use per 20,000 square feet of lot area max

3.2.7.E **District Standards.** The following standards apply in the Tourism Business zoning district:

- (1) Food service drive-throughs are prohibited. All other drive-throughs may only be located at the rear of the building and will require conditional use approval.
- (2) Any proposed development that will generate 75 or more peak hour trips must submit a traffic study and must demonstrate that the proposed development will appropriately mitigate traffic-related impacts.

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- (3) Industrial uses greater than 5,000 square feet must include a retail or educational component (i.e., factory store, display and/or observation area where visitors can learn about the manufacturing process, etc.).
- (4) Any development subject to subdivision or major site plan approval must maintain a green strip at least 25 feet deep as measured from the edge of the highway right-of-way along the frontage landscaped in accordance with Subsection 4.3.1.D.
- (5) Land being subdivided must be accessed from a single curb cut that will serve all lots within the subdivision unless the Development Review Board finds that more than one curb cut is necessary in accordance with Paragraph 4.1.2.D(1).

3.2.8 RESIDENTIAL 1 (R-1)

3.2.8.A **Purpose.** The Residential 1 zoning district provides for residential uses in a rural setting. It is the intent of this district to accommodate housing that will meet the needs of current and future residents while minimizing adverse impacts on environmental quality.

3.2.8.B **Permitted Uses.** The following are permitted uses in the Residential 1 zoning district:

Residential	Industrial
(1) Single-family dwelling	(10) Communications antenna
(2) Two-family dwelling	
(3) Accessory dwelling	Arts, Entertainment and Recreation
(4) Home occupation	(11) Public outdoor recreation or park
(5) Family childcare home	(12) Golf course or country club
(6) Senior housing	
(7) Group home	Civic and Community
	(13) Cemetery
Lodging	
(8) Bed and breakfast	Natural Resource Based
(9) Short-term rental	(14) Farming or forestry

3.2.8.C **Conditional Uses.** The following are conditional uses in the Residential 1 zoning district:

Residential	Arts, Entertainment, Recreation (con't)
(1) Three- or four-family dwelling	(9) Campground
(2) Home business	(10) Equestrian facility
(3) Assisted living	
(4) Skilled nursing services	Civic and Community
	(11) Government facility
Lodging	(12) Educational institution
(5) Inn	(13) Child daycare
(6) Rooming and boarding house	(14) Religious institution
	(15) Social club
Arts, Entertainment and Recreation	
(7) Museum	Natural Resource Based
(8) Fitness club or gym	(16) On-farm business

3.2.8.D Dimensional Standards. The following standards apply in the Residential 1 zoning district:

Lots	
(1) Lot size:	1 acre min
(2) Lot frontage:	120 ft min
(3) Lot coverage:	30% max
Setbacks	
(4) Front:	20 ft min
(5) Side:	12 ft min
(6) Rear:	20 ft min
Buildings	
(7) Structure height:	36 ft max
Density	
(8) Residential density:	1 dwelling unit per 1 acre of lot area max
(9) All other principal uses:	1 principal use per 1 acre of lot area max

3.2.8.E District Standards. The following standards apply in the Residential 1 zoning district:

- (1) Proposed development that would create 5 or more dwelling units or residential lots must be designed and approved as a conservation or cluster development in accordance with Chapter 4.5.

3.2.9 RURAL (RL)

3.2.9.A Purpose. The Rural zoning district provides for natural resource based and low-density residential uses. It is the intent of this district to promote the economic viability of farming and forestry, maintain working land, and protect rural character and environmental quality.

3.2.9.B Permitted Uses. The following are permitted uses in the Rural zoning district:

Residential	Industrial
(1) Single-family dwelling	(9) Communications antenna
(2) Two-family dwelling	
(3) Accessory dwelling	Arts, Entertainment and Recreation
(4) Home occupation	(10) Public outdoor recreation or park
(5) Family childcare home	(11) Golf course or country club
(6) Group home	
	Civic and Community
Lodging	(12) Cemetery
(7) Bed and breakfast	
(8) Short-term rental	Natural Resource Based
	(13) Farming or forestry

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3.2.9.C Conditional Uses. The following are conditional uses in the Rural zoning district:

Residential	Arts, Entertainment and Recreation
(1) Home business	(11) Museum
	(12) Commercial outdoor recreation
Lodging	(13) Campground
(2) Inn	(14) Equestrian facility
Commercial	Civic and Community
(3) Lawn, garden and farm supply sales	(15) Government facility
(4) Lumberyard and building supply sales	(16) Educational institution
(5) Veterinary, pet or animal services	(17) Specialty school
(6) Event facility	(18) Religious institution
	(19) Social club
Industrial	Natural Resource Based
(7) Communications tower	(20) Extraction and quarrying
(8) Composting services	(21) Firewood processing
(9) Contractor's yard or unenclosed storage	(22) On-farm business
(10) Sawmill	

3.2.9.D Dimensional Standards. The following standards apply in the Rural zoning district:

Lots	
(1) Lot size:	2 acres min for residential uses, 5 acres min for all other uses
(2) Lot frontage:	180 ft min
(3) Lot coverage:	20% max
Setbacks	
(4) Front:	40 ft min
(5) Side:	20 ft min or 50 ft min for nonresidential uses from an adjoining residential lot
(6) Rear:	20 ft min or 50 ft min for nonresidential uses from an adjoining residential lot
Buildings	
(7) Structure height:	30 ft max
Density	
(8) Residential density:	1 dwelling unit per 5 acres of lot area max
(9) All other principal uses:	1 principal use per 5 acres of lot area max

3.2.9.E District Standards. The following standards apply in the Rural zoning district:

- (1) Proposed development that would create 5 or more dwelling units or residential lots must be designed and approved as a conservation or cluster development in accordance with Chapter 4.5.
- (2) Proposed nonresidential development must provide a buffer at least 25 feet deep along any shared property lines with a residential lot or district landscaped in accordance with the requirements of Subsection 4.3.7.D.

3.2.10 CONSERVATION (CON)

3.2.10.A **Purpose.** The Conservation zoning district provides for natural resource based and very low density residential uses. It is the intent of this district to protect Waterbury’s environmental quality and rural character.

3.2.10.B **Permitted Uses.** The following are permitted uses in the Conservation zoning district:

Residential	Industrial
(1) Single-family dwelling	(8) Communications antenna
(2) Accessory dwelling	
(3) Home occupation	Arts, Entertainment and Recreation
(4) Family childcare home	(9) Public outdoor recreation or park
(5) Group home	
	Natural Resource Based
Lodging	(10) Farming or forestry
(6) Bed and breakfast	
(7) Short-term rental	

3.2.10.C **Conditional Uses.** The following are conditional uses in the Conservation zoning district:

Industrial	Civic and Community
(1) Communications tower	(7) Government facility
	(8) Educational institution
Arts, Entertainment and Recreation	(9) Specialty school
(2) Museum	(10) Religious institution
(3) Commercial outdoor recreation	(11) Social club
(4) Golf course or country club	
(5) Campground	Natural Resource Based
(6) Equestrian facility	(12) Extraction and quarrying
	(13) On-farm business

3.2.10.D **Dimensional Standards.** The following standards apply in the Conservation zoning district:

Lots	
(1) Lot size:	2 acres min for residential uses, 10 acres min for all other uses
(2) Lot frontage:	180 ft min
(3) Lot coverage:	10% max
Setbacks	
(4) Front:	40 ft min
(5) Side:	20 ft min
(6) Rear:	20 ft min
Buildings	
(7) Structure height:	30 ft max
Density	
(8) Residential density:	1 dwelling unit per 10 acres of lot area max
(9) All other principal uses:	1 principal use per 10 acres of lot area max

3.3 Use and Dimensional Tables

3.3.1 USE TABLE

USE & DEFINITION	(P= Permitted Use C = Conditional Use X = Prohibited Use)			DWN	MU	R-5 R-10	IT	GB	TB	R-1	RL	CON
RESIDENTIAL												
Single-family dwelling Use of a structure for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.	P	P	P	X	X	P						
Two-family dwelling Use of a structure for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.	P	P	P	X	X	P						
Three- or four-family dwelling Use of a structure for habitation by 3 or 4 households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.	P	P	P	X	X	P						
Multi-family dwelling (5+ units) Use of a structure or part of a structure for habitation by five or more households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, or any dwelling unit in a mixed-use building. See Section 4.2.1.	P	P	C	C	X	C						
Accessory dwelling Accessory use of single-family residential property for a second dwelling unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation. See Section 4.2.2.	X	P	P	X	X	P						
Home occupation Accessory use of single-family residential property for a small business that does not alter the residential character of the property. See Section 4.2.3.	X	P	P	X	X	P						
Home business Accessory use of single-family residential property for a small business that may alter the residential character of the property. See Section 4.2.4.	X	P	C	X	X	P						
Family childcare home Accessory use of single-family residential property for a small daycare business that operates under state license or registration. See Section 4.2.5.	X	P	P	X	X	P						
Senior housing Use of one or more structures to primarily house people age 55 or older that: (a) Contains multiple dwelling units each intended for habitation by one household and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation; and (b) May offer minimum convenience services to residents as an accessory use.	X	P	P	X	X	P						
Assisted living Use of one or more structures to provide housing, board and care to residents who need assistance with daily activities such as dressing, grooming, bathing, etc. and that operates under state license. Includes residential care homes.	X	P	C	C	X	C						
Skilled nursing service Use of one or more structures to provide housing and 24-hour skilled nursing care to residents and that operates under state license. This includes nursing or convalescent homes, and hospice or respite care facilities.	X	P	C	P	X	C						
Group home Use of single-family residential property to provide housing to people with a handicap or disability that operates under state license or registration. See Section 4.2.6.	X	P	P	X	X	P						
Emergency housing Use of structure or part of a structure to provide food, shelter, and other support services on a temporary basis to people who are homeless or to victims of disaster.	X	C	C	X	X	C						
LODGING												
Bed-and-breakfast Accessory use of single-family residential property to provide short-term accommodations for travelers. See Section 4.2.7.	X	P	P	X	X	P						
Inn Use of one or more structures to provide short-term accommodations for travelers. May include a restaurant, bar, event facility, spa or fitness club as an accessory use. See Section 4.2.8..	P	P	C	X	X	P						
Rooming and boarding house Accessory use of a single-family residential property to provide accommodations that will typically serve as the boarder's principal residence, and that commonly includes meals and/or housekeeping services. See Section 4.2.9.	X	P	P	X	X	C						
Short-term rental Accessory use of property to provide short-term guest accommodations. Includes Airbnb and similar rentals. See Section 4.2.10.	X	P	P	X	X	P						
Hotel or motel Use of one or more structures to provide short-term accommodations for travelers. It may also include accessory uses such as food services, recreational services, convention hosting, laundry services, etc. See Section 4.2.11.	P	C	X	X	X	P						

USE & DEFINITION	(P= Permitted Use	C = Conditional Use	X = Prohibited Use)	DWN	MU	R-5 R-10	IT	GB	TB	R-1	RL	CON
COMMERCIAL												
Retail sales (up to 2,000 sf >2,000 sf) An establishment that sells goods to the general public for personal or household consumption primarily from within an enclosed structure, excluding any use specifically defined in this section. It may also provide installation, repair or maintenance services as accessory use.	P C	P X	X X	X X	X C	P C	X X	X X	X X	X X	X X	X X
Sales lot An establishment that sells large items such as vehicles, boats, equipment, machinery, manufactured homes or prefabricated buildings primarily from an open lot. It may also provide installation, repair or maintenance services as an accessory use. See Section 4.2.12.	X	X	X	X	P	X	X	X	X	X	X	X
Repair service (small goods, up to 2,000 sf vehicles, large goods or >2,000 sf) An establishment that maintains, services, repairs or paints goods such as appliances, vehicles, boats, equipment or machinery. See Section 4.2.13.	X X	P X	X X	X X	P P	X X	X X	X X	X X	X X	X X	X X
Fueling station A specialized establishment for selling gasoline or other vehicle fuels. Commonly combined with other retail uses such as a carwash or convenience store, or with an auto repair and service garage. See Section 4.2.14.	X	X	X	X	C	C	X	X	X	X	X	X
Carwash A specialized establishment for washing, waxing, polishing and general cleaning of vehicles. See Section 4.2.15.	X	X	X	X	C	C	X	X	X	X	X	X
Lawn, garden and farm supply sales An establishment that sells goods to the general public for personal or household consumption primarily from outdoor areas or open air structures, excluding any use specifically defined in this section that sells specialized products and services for lawn, garden or farm use. It may: (a) sell farm supplies such as feed and seed; (b) sell nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, soil, compost, mulch, or sod; (c) sell lawn, garden or farm equipment or machinery as an accessory use; and (d) provide installation, repair or maintenance services as an accessory use. See Section 4.2.16.	X	X	X	X	P	P	X	C	X	X	X	X
Lumberyard and building supply sales An establishment that sells lumber and heavy building materials, and that typically stores most of its stock outdoors or under open-air structures. See Section 4.2.16.	X	X	X	X	P	X	X	C	X	X	X	X
Open market or auction house An establishment where goods are brought to be immediately sold to the general public for personal or household consumption often from outdoor areas or open air structures. See Section 4.2.17.	P	X	X	X	P	C	X	X	X	X	X	X
Food or beverage store (up to 2,000 sf >2,000 sf) An establishment that sells food or beverage items primarily not for immediate consumption to the general public. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.	P C	P X	X X	X X	X C	P C	X X	X X	X X	X X	X X	X X
Convenience store (up to 2,000 sf >2,000 sf) An establishment that sells a limited line of staple food, packaged food, and convenience items primarily for off-site consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.	P C	P X	X X	X X	X C	P C	X X	X X	X X	X X	X X	X X
Financial establishment An establishment that engages in financial transactions that create, liquidate or change ownership of financial assets such as accepting deposits, making loans and issuing currency.	P	P	X	P	P	X	X	X	X	X	X	X
Rental and leasing (small goods, up to 2,000 sf vehicles, large goods or >2,000 sf) An establishment that rents or leases tangible goods such as vehicles, boats, equipment or machinery to consumer or business customers. It may also provide installation, repair or maintenance services an as accessory use.	P X	P X	X X	X X	P P	P C	X X	X X	X X	X X	X X	X X
Office, professional, business or administrative service (up to 2,000 sf >2,000 sf) An establishment that: (a) is used to conduct the affairs of a business, organization or profession; (b) provides services that are reliant on the specialized training, expertise, skills or knowledge of practitioners; or (c) provides support services primarily to other businesses such as billing, collection, advertising, telemarketing, copying, mailing, etc. This definition specifically excludes services provided by licensed medical or veterinary practitioners.	P P	P X	X X	P P	P P	X X	X X	X X	X X	X X	X X	X X
Personal service (up to 2,000 sf >2,000 sf) An establishment that provides services on or closely related to the physical person including, but not limited to, laundry, tailoring, shoe repair, hair salon, nail salon, tanning salon, spa, massage parlor or tattoo parlor. It may include sales of related personal products as an accessory use. This definition specifically excludes services provided by licensed medical or veterinary practitioners.	P C	P X	X X	X X	X X	P C	X X	X X	X X	X X	X X	X X
Veterinary, pet or animal service (up to 2,000 sf >2,000 sf) An establishment: (a) where licensed practitioners of veterinary medicine, dentistry or surgery treat animals; (b) that provides animal and pet care services such as boarding, grooming, sitting and training; or (c) that breeds, sells or manages adoption of pets. It may include grooming, boarding or other pet services as an accessory use. It may include sales of pet food, medicines or supplies as an accessory use. See *.	X X	P X	X X	X X	P P	P C	X X	C C	X X	X X	X X	X X
Building or property maintenance service An establishment that provides building or property maintenance services to consumer or business customers. This definition specifically excludes a contractor's yard.	X	X	X	X	P	X	X	X	X	X	X	X
Restaurant (sit-down take-out) An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption. A restaurant will be classified as take-out if it has drive-through service. A restaurant without drive-through service that has both eat-in and take-out service will be classified as a sit-down restaurant provided that the dining area (exclusive of any outdoor dining) comprises at least 40% of the total floor area of the restaurant. This definition includes a retail bakery that sells at least 50% of its products on the premises. This definition specifically excludes mobile food and catering service. See Section 4.2.18.	P C	P C	X X	X X	X X	P P	X X	X X	X X	X X	X X	X X
Mobile food service An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption from motorized vehicles or non-motorized carts that are parked or located outside the road right-of-way. See Section 4.2.19.	X	C	X	X	C	P	X	X	X	X	X	X

	DWN	MU	R-5 R-10	IT	GB	TB	R-1	RL	CON
USE & DEFINITION (P= Permitted Use C = Conditional Use X = Prohibited Use)									
Bar An establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may include food service and live entertainment as an accessory use. This definition includes a brewpub that produces less than 15,000 barrels of beer per year and sells 25% or more of its beer on the premises. See Section 4.2.20.	P	C	X	X	X	P	X	X	X
Nightclub An establishment that operates as a place of entertainment with music, dancing, or similar live or recorded performances, and where food and drink are served for immediate consumption on the premises. See Section 4.2.20.	C	X	X	X	X	C	X	X	X
Event facility An establishment used to host conventions, trade shows, corporate meetings, weddings, receptions, reunions and similar special events that typically includes large open spaces such as auditoriums, banquet halls, exhibition halls and meeting rooms. See Section 4.2.20.	C	C	X	P	X	P	X	C	X
Catering or commercial kitchen A state-licensed establishment that prepares: (a) meals, snacks and beverages to be served at off-premise events; or (b) food or beverage products for wholesale or retail sale provided that the operator does not require a state food processing establishment license (such uses will be considered food or beverage manufacturing under these regulations).	P	P	X	X	P	P	X	X	X
INDUSTRIAL									
Light industry (enclosed, up to 5,000 sf enclosed, >5,000 sf) An establishment that produces new products, materials or parts in a facility that generally does not rely on specialized power, water or waste disposal systems for operation. All light industrial operations must occur within an enclosed building, which is typically similar to an office building in its size, appearance and impacts. It may include a retail shop as an accessory use that primarily sells products produced on the premises. This definition excludes any use specifically defined in this section.	P X	X X	X X	X X	P C	P C	X X	X X	X X
Food or beverage manufacturing (enclosed, up to 10,000 sf enclosed, >10,000 sf) A state licensed establishment that produces food or beverage products that are typically sold to wholesalers or retailers. It may include a retail shop, restaurant or bar as an accessory use that primarily sells products produced on the premises. This definition includes a microbrewery or commercial bakery.	P X	X X	X X	X X	P C	P C	X X	X X	X X
Wholesale trade An establishment that sells or arranges the purchase of goods primarily to other businesses that is set up as a warehouse or office with little to no display of merchandise and where customers do not have direct access to the primary merchandise being sold.	C	C	X	X	P	X	X	X	X
Storage and distribution services (enclosed) An establishment that stores, but does not sell, goods and may provide a range of services related to the distribution of goods. This definition specifically excludes any use specifically defined in this section.	C	C	X	X	P	X	X	X	X
Self-storage services An establishment that provides individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods. See Section 4.2.21.	X	X	X	X	P	X	X	X	X
Tank farm or fuel storage and distribution services An establishment with one or more tanks that typically store fuels, oils and similar liquid products. It may include sale and distribution of such products. See Section 4.2.22.	X	X	X	X	C	X	X	X	X
Freight transportation services An establishment that provides: (a) transportation of cargo using trucks, tractor trailers or rail; or (b) that provides services such as storage, maintenance, repair or fuel primarily for heavy vehicles, including buses, or rail equipment.	X	X	X	X	C	X	X	X	X
Passenger transportation services An establishment that provides transportation of people including, but not limited to, transit services, bus or rail stations, transportation centers, and taxi or limousine services.	P	C	X	X	P	C	X	X	X
Publishing, printing and sign manufacturing An establishment that: (a) issues copies of works that are usually protected by copyright and that may print, reproduce, distribute, or offer direct access to works such as newspapers, magazines, periodicals, books, databases, calendars, greeting cards, maps, posters, software, sound recordings or video recordings; or (b) fabricates signs, banners or similar communication devices. This definition specifically excludes retail copy shops, which will be considered an office, professional, business or administrative service under these regulations.	C	X	X	X	P	C	X	X	X
Media recording or broadcasting studio An establishment that is used to produce, distribute and/or broadcast sound or video programs or recordings.	P	P	X	X	P	P	X	X	X
Communications antenna A device used to transmit or receive radio, television or other wireless communications and related structures and equipment. This definition specifically excludes a communication tower. See Section 4.2.23.	P	P	P	P	P	P	P	P	P
Communications tower A structure used to support one or more communication antennas and related structures and equipment. See Section 4.2.23.	X	X	X	X	X	X	X	C	C
Information services An establishment used to: (a) house computer systems and associated components such as telecommunications and storage systems that typically includes redundant or back-up power supplies and communications connections, environmental controls and security devices; or (b) provide electronic data processing services or that supply information including, but not limited to, internet access or service providers, and electronic library or archive services.	C	C	X	X	P	X	X	X	X

	DWN	MU	R-5 R-10	IT	GB	TB	R-1	RL	CON
USE & DEFINITION	(P= Permitted Use C = Conditional Use X = Prohibited Use)								
Composting services An establishment used to transform organic waste into a stable, soil-like product in a controlled environment under aerobic conditions. This definition specifically excludes composting activities that are limited to organic waste produced on the premises.	X	X	X	X	C	X	X	C	X
Recycling services An establishment used to collect, separate and/or recover recyclable materials. It may include the preparation of materials for efficient shipment by means such as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. It may include retail sales of recovered materials as an accessory use.	X	X	X	X	C	X	X	X	X
Metal fabrication shop (enclosed) An establishment that produces, assembles or repairs metal products or parts including, but not limited to, the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, machine parts, hardware and tools, plumbing fixtures and products, tanks and similar products. These establishments may include blacksmith, welding, plating, stripping, coating, sheet metal, machine and/or boiler shops.	X	X	X	X	P	X	X	X	X
Sawmill An establishment used to process logs or minimally processed wood products into dimensional lumber. It may include retail sales of lumber produced on the premises as an accessory use. The operation of portable sawmills will be included in this definition if used for purposes other than forestry or producing lumber for on-site use.	X	X	X	X	P	C	X	C	X
Contractor's yard or unenclosed storage An establishment that: (a) provides storage for vehicles, machinery, equipment and materials used by a contractor in the construction-related trades, which may include a shop for maintaining or repairing the contractor's vehicles, machinery or equipment or the contractor's business office; or (b) leases outdoor storage space for vehicles, boats or similar large goods to commercial customers or the general public. This definition specifically excludes junkyards. See Section 4.2.24.	X	X	X	X	C	X	X	C	X
ART, ENTERTAINMENT AND RECREATION									
Performance theater An establishment that presents live entertainment by actors, singers, dancers, musicians or other performing artists to an audience.	P	C	X	X	X	P	X	X	X
Movie theater An establishment that shows movies or other recorded entertainment to an audience.	P	C	X	X	X	X	X	X	X
Artist gallery or studio (up to 2,000 sf >2,000 sf) An establishment used to produce, display and/or sell works of art.	P C	P C	X X	X X	P P	P P	X X	X X	X X
Museum An establishment that preserves and exhibits objects, sites and natural wonders of historical, cultural or educational value.	P	C	C	P	X	P	C	C	C
Indoor recreation (up to 2,000 sf >2,000 sf) An establishment that offers physical fitness, sports, games and other leisure-time activities primarily from within an enclosed structure. This definition specifically excludes any use defined in this section.	P C	P C	X X	X X	P P	P P	X X	X X	X X
Fitness club or gym An establishment that offers fitness or recreational sports facilities and services to members and their guests primarily from within an enclosed building.	P	P	C	X	P	P	C	X	X
Commercial outdoor recreation (passive active) A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily outside an enclosed building.	X X	X X	X X	X X	P X	P P	X X	C C	C C
Public outdoor recreation or park A non-commercial establishment that offers sports, games and other leisure-time activities to the general public primarily outside an enclosed structure, or land that is maintained in a primarily unimproved natural state for passive recreation and/or conservation purposes.	P	P	P	P	P	P	P	P	P
Golf course or country club An establishment laid out with at least nine holes for playing the game of golf and improved with trees, greens, fairways and hazards. It may include a clubhouse that offers food and beverages to members and guests, restrooms, driving range and shelters. It may provide additional recreational activities and/or retail sales of golf-related merchandise as an accessory use.	X	X	X	X	X	P	P	P	C
Campground An establishment: (a) designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicles, or (b) that provides overnight recreation camping or outdoor adventure retreats. It may provide facilities and services such as cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities. See *.	X	X	X	X	X	P	C	C	C
Equestrian facility A commercial establishment used to house, train, care for, and/or ride horses.	X	X	X	X	X	P	C	C	C
CIVIC AND COMMUNITY									
Government facility A state- or municipal-owned or operated establishment that serves a public function and provides governmental services.	P	P	C	P	P	P	C	C	C

	DWN	MU	R-5 R-10	IT	GB	TB	R-1	RL	CON
USE & DEFINITION (P= Permitted Use C = Conditional Use X = Prohibited Use)									
Educational institution A state-certified public or private establishment that provides educational services.	P	P	C	P	X	C	C	C	C
Specialty school (indoor and up to 5,000 sf outdoor or >5,000 sf) A commercial establishment that offers instruction, classes or training on a specific topic such as cooking, arts, crafts, dance, music, sport or fitness.	P X	P X	X X	P P	P C	P C	X X	C C	C C
Clinic or outpatient care services An establishment from which one or more licensed practitioners provide healthcare services to people primarily as outpatients.	C	C	X	P	P	X	X	X	X
Hospital or inpatient care services An establishment from which one or more licensed practitioners provide healthcare services to people primarily as inpatients.	X	X	X	C	X	X	X	X	X
Rehabilitation services or residential treatment facility An establishment other than a licensed hospital that provides protective supervision and/or counseling to people with mental illness, substance abuse problems, emotional problems, or physical or mental disabilities or impairments, and that may offer residential or accommodation services. See Section 4.2.25.	X	C	X	C	X	X	X	X	X
Child day care An establishment that cares primarily for infants and preschool-age children, as well as older children when school is not in session.	P	P	X	P	P	X	C	X	X
Social assistance and charitable services An establishment that provides social assistance services directly to individuals, and that does not offer residential or accommodation services.	P	P	X	P	P	X	X	X	X
Religious institution An establishment that serves as a place of worship or congregation for a religious purpose. It may offer educational services, charitable services or other uses associated with religious exercise as an accessory use.	P	P	C	P	P	P	C	C	C
Funeral and cremation services An establishment that prepares deceased people for burial or cremation, cremates the remains of deceased people, and/or holds funeral services.	P	P	X	X	P	X	X	X	X
Cemetery A site designed to inter or otherwise store the remains of deceased people.	X	X	X	X	X	X	P	P	X
Social club A private establishment that is the premises of a nonprofit organization that meets periodically to promote some social, service, educational, athletic or recreational objectives and that caters exclusively to members and their guests.	P	P	X	X	X	C	C	C	C
NATURAL RESOURCE BASED									
Farming or forestry An establishment that grows crops, raises animals, harvests timber, or harvests plants or animals from their natural habitats. See *.	X	X	X	X	X	P	P	P	P
Firewood processing An establishment that produces firewood for wholesale or retail sale from logs that are primarily harvested off-site and delivered to the premises. This definition specifically excludes sawmills and forestry.	X	X	X	X	P	C	X	C	X
Extraction and quarrying An establishment that dredges, quarries, mines, or develops mine sites for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening. See Section 4.2.26.	X	X	X	X	X	X	X	C	C
On-farm business An establishment that engages in agri-tourism, agri-education, direct marketing of locally-produced farm or forest products, or that adds value to locally-produced farm or forest products. See Section 4.2.27.	X	X	X	X	X	P	C	C	C

3.3.2 DIMENSIONAL TABLE

USE & DEFINITION	DWN	MU	R-10	R-5	IT	CI	TB	R-1	RL	CON
LOTS										
Minimum lot size Inclusive of all land within the property boundaries, but excluding any land within a road right-of-way.	2,000 sf	4,000 sf	4,000 sf	8,000 sf	n/a	10,000 sf	20,000 sf	1 acre	2 acre residential 5 acre non-res	2 acre residential 10 acre non-res
Minimum lot frontage On a maintained public or private street, excluding any frontage on limited access highways, or Class 4 roads or unimproved rights-of-way.	30 ft	30 ft	45 ft	60 ft	n/a	60 ft	90 ft	120 ft	180 ft	180 ft
Maximum lot coverage Total amount of impervious surface as a percentage of total lot area.	90%	80%	80%	70%	60% for campus as a whole	80%	60%	30%	20%	10%
SETBACKS										
Minimum front setback Measured from the edge of the road right-of-way, or if no right-of-way from the front lot line.	0 ft	0 ft	12 ft	16 ft	0 ft interior lot lines min 20 ft exterior lot lines min	16 ft	20 ft	20 ft	40 ft	40 ft
Minimum side setback Measured from the side lot lines.	0 ft	4 ft	8 ft	12 ft		12 or 20 ft ¹	12 ft	12 ft	20 ft or 50 ft ¹	20 ft
Minimum rear setback Measured from the rear lot line.	0 ft	8 ft	12 ft	16 ft		12 or 20 ft ¹	12 or 20 ft ¹	20 ft	20 ft or 50 ft ¹	20 ft
BUILDINGS										
Build-to-line Measured as a line drawn the specified distance from and parallel to the road right-of-way.	8 ft	16 ft	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Minimum build-to-line coverage Percentage of the build-to-line that must be covered by a building.	80%	60%	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Maximum principal building footprint Area of ground covered by the building as measured around the exterior building walls.	n/a	n/a	6,000 sf	6,000 sf	n/a	n/a	n/a	n/a	n/a	n/a
Minimum principal building height Measured from the average finished grade at the base of a principal building to the eaves, or the roof deck if roof is flat.	24 ft	18 ft	n/a	n/a	24 ft	n/a	18 ft	n/a	n/a	n/a
Maximum structure height Measured from the average finished grade at the base of the structure to the highest point of the structure, excluding architectural and roof-top elements listed in *.	60 ft	48 ft	36 ft	36 ft	48 ft	36 ft	48 ft	36 ft	30 ft	30 ft
DENSITY										
Maximum residential density Measured as number of dwelling units per square foot of total lot area, except that accessory dwellings in accordance with * will not be included.	n/a	1 du per 2,000 sf	1 du per 4,000 sf	1 du per 8,000 sf	n/a	n/a	1 du per 20,000 sf	1 du per 1 acre	1 du per 5 acres	1 du per 10 acres
Maximum density for all other principal uses Measured as number of principal uses other than dwelling units per square foot of total lot area.	1 use per 2,000 sf	1 use per 4,000 sf	1 use per 4,000 sf	1 use per 8,000 sf	n/a	1 use per 10,000 sf	1 use per 20,000 sf	1 use per 1 acre	1 use per 5 acres	1 use per 10 acres

3.4 Overlay Zoning Districts

3.4.1 DESIGN REVIEW OVERLAY DISTRICT

3.4.1.A **Purpose.** The Design Review overlay district establishes specific building form and urban design standards, and a higher level of review for proposed development, in those areas of Waterbury recognized as having particular historical, architectural or cultural value in order to:

- (1) Protect and enhance architectural and historic resources;
- (2) Maintain and enhance property values;
- (3) Encourage a consistently high standard of design in new construction and renovations;
- (4) Support and sustain a pleasant, pedestrian-oriented downtown; and
- (5) Strengthen the community's economic vitality and the downtown district's historic function as a center for commerce, industry, government, and housing.

3.4.1.B **Applicability.** The following will be subject to design review under this section unless exempted under Subsection 3.4.1.C:

- (1) Installation of a new sign or any modification of an existing sign;
- (2) Construction of a new structure;
- (3) Additions to or demolition (in whole or part) of existing structures;
- (4) Relocation of existing structures; and
- (5) Any other external modification to an existing site or structure.

3.4.1.C **Exemptions.** The following will not be subject to design review under this section:

- (1) A change in use or occupancy that does not involve any permanent alteration to the exterior of a site or structure;
- (2) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements;
- (3) Demolition or relocation of an accessory structure provided that it is not a historic structure;
- (4) Removal of a sign, not including any support components attached to a historic structure;
- (5) Construction of an accessory structure such as a ramp or fire escape required to meet state or federal code provided that the building is not a historic structure;
- (6) Rooftop solar that meets the standards of Paragraph 1.2.6.A(18); and
- (7) Normal repair and maintenance of existing structures. Normal repair and maintenance includes:
 - (a) Repainting a surface that has previously been painted irrespective of any change in color.

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- (b) Replacement of siding or roofing materials provided that the building is not a historic structure. For historic structures, replacement siding or roofing must be in kind as defined in Subsection 5.1.3.1(2) and all existing trim and architectural details must be retained otherwise it will subject to design review.
- (c) Replacement of windows or doors provided that the building is not a historic structure and that there is no change in dimension or location. For historic structures, replacement windows or doors must be in kind (same material, dimensions, design, etc.) and all existing trim and architectural details must be retained otherwise they will be subject to design review.
- (d) Repainting or replacement of a conforming sign panel provided that the sign has a prior design review approval and there is no change in dimension, design or materials.
- (e) Replacement or reconstruction of a porch, entryway, ramp or landing provided that the building is not a historic structure and that there is no change in design, dimension or location. For historic structures, the replacement must be in kind (same materials, dimensions, design, etc.) and all trim and architectural details must be retained or replaced in kind otherwise it will be subject to design review.
- (f) Replacement or reconstruction of sidewalks and walkways within the same footprint as the original.
- (g) Replacement or reconstruction of an existing fence or wall provided that it is not a historic structure and that there is no change in design, height or location.

3.4.1.D **Allowed Uses and Dimensional Standards.** The use and dimensional standards of the base zoning district will apply to a lot within this overlay district.

3.4.1.E **Site Design Standards.** The standards below apply to site design in this overlay district:

- (1) **Neighborhood Compatibility.** Site designs must be integrated and compatible with the surrounding neighborhood including connecting to and extending vehicular and pedestrian networks and greenways. Proposed development located next to or across from a historic site or structure must not alter the surroundings and context in a manner that would diminish the historic value of that site or structure.
- (2) **Accessory Structures.** Accessory structures must be sited and designed to minimize their visibility from the street and to be compatible in terms of architectural character, materials, colors with the associated principal building. Unless necessary for their intended function, accessory structures must be located to the side or rear of the associated principal building.
- (3) **Off-Street Parking.** Off-street parking must be located to the side or rear of the principal building on the lot. Lots devoted entirely to surface parking, and to the maximum extent feasible any pre-existing parking between the building and the street, must be screened with landscaping and/or decorative fencing.
- (4) **Pedestrian Access.** Sidewalks or clearly-defined, hard-surfaced pedestrian walkways must be provided through parking areas, between buildings and from public sidewalks to building entrances.

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- (5) **Utilities and Mechanical Equipment.** Utilities must be buried unless the applicant demonstrates that it is not feasible to do so because of a physical limitation on the site (ex. ledge). Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, must be located to the side or rear of the principal building and screened from view at the front property line by the principal building, vegetation, and/or an enclosure designed to be compatible with the architectural character and predominant exterior materials of the principal building.

3.4.1.F **General Building Design Standards.** The standards below apply to the design and construction of principal buildings, including additions to and renovations of existing buildings, and accessory buildings with a footprint greater than 500 square feet in this overlay district:

- (1) **Building Placement.** Buildings must be placed and designed to reinforce traditional, pedestrian-oriented streetscape patterns, including building orientation and setbacks, and in a manner that is integrated and compatible with neighboring buildings and properties. Buildings must be oriented to and relate both functionally and visually to the street.
- (2) **Building Form.** Buildings must have a multi-faceted exterior form in which articulated facades are combined with window and door placement, other architectural detailing, and use of multiple exterior materials, textures and/or patterns to create visually interesting and pleasing designs. This standard is intended to limit flat walls with minimal features.
- (3) **Building Massing and Height.** Buildings must maintain an overall scale similar to that of surrounding buildings or be designed to appropriately transition from areas of higher intensity and larger-scale buildings to areas of lower intensity and smaller-scale buildings. Large buildings must be designed so as to reduce their perceived mass through variations in wall plane and roof lines so that they appear as a group of smaller, separate buildings, and to use architectural components that allow the building to be perceived having a human scale.
- (4) **Facade Size.** Buildings with facades that exceed 40 feet in width must be divided into distinct “modules” defined by visible changes in facade elevation through the use of wall plane projections, changes in roofline, piers, columns, colonnades, arcades or similar architectural features.
- (5) **Rooflines.** Buildings or parts of buildings, that are less than 2 stories must have pitched roofs with slopes of 6:12 or steeper. This will not apply to secondary roofs (such as over porches, balconies, bay windows or similar small footprint building elements). This standard will not apply to single-family residential buildings.
- (6) **Additions.** Additions must be compatible in scale, massing and design with the original structure and must not obscure the form and architectural details of the original structure.

3.4.1.G Design Standards for Non-Residential or Mixed-Use Buildings. The standards below apply to the design and construction of non-residential or mixed-use buildings, including additions to and renovations of existing buildings, and associated accessory buildings with a footprint greater than 500 square feet in this overlay district:

- (1) **Building Structure.** Buildings that are more than 2 stories in height must incorporate a base, a middle, and a cap as follows:
 - (a) The base must include an entryway with transparent windows as specified in Paragraph (4) below and a molding or reveal placed between the first and second stories or over the second story with a depth of at least 2 inches and a height of at least 4 inches.
 - (b) The middle may include windows and/or balconies.
 - (c) The cap (the area from the top floor to the roof of the building) must include a cornice or a roof overhang.
- (2) **Principal Entrance.** All buildings must have a principal entrance on each street-facing facade that is accessible from the public sidewalk and from any on-site parking areas via a pedestrian walkway with an improved surface.
- (3) **Windows and Entryways.** The street-facing facade(s) of buildings must conform to all of the following:
 - (a) The ground floor must be designed to encourage and complement pedestrian-scale activity by the use of windows and doors arranged so that the uses occupying the first-floor street frontage are visible and/or accessible from the sidewalk.
 - (b) At least 60% and not more than 90% of the ground floor elevation (as measured from the sidewalk to the finished ceiling of the ground floor and across the entire facade) must be public entrances and windows.
 - (c) Doors must be recessed into the face of the building or be covered to provide a protected entryway not less than 15 square feet in area.
 - (d) Canopies, awnings and similar appurtenances may be constructed at the entrance to any building and may extend over the public sidewalk upon municipal approval.

3.4.1.H Exterior Modifications and Additions to Existing Non-Historic Buildings. An applicant proposing exterior modifications to an existing non-historic building within this overlay district must meet the design standards of this section for those elements of the structure that will be modified and for newly constructed elements and must conform to the following:

- (1) **Windows and Doors**
 - (a) Window and door openings must be retained in their existing location and dimensions except that modifications may be allowed:
 - (i) Where the modifications will not be visible from the street, or
 - (ii) To bring a building into greater conformance with the standards of this section.
 - (b) Additions must be designed with windows and doors that are compatible with the original portion of the building in terms of pattern, location, dimensions and design.

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- (c) Storm windows or doors must match the design of the primary window or door.
 - (d) Shutters must be designed and sized to cover half the window opening and must be mounted so that they will or will appear to be functional.
 - (2) **Roofs.** Original rooflines must be retained and not be obscured by additions except that modifications may be allowed:
 - (a) Where the modifications will not be visible from the street, or
 - (b) To bring a building into greater conformance with the standards of this section.
 - (3) **Masonry.** Modification of and damage to masonry elements must be avoided to the maximum extent feasible (i.e., drilling to mount signs or to run utility lines). Unpainted masonry surfaces must not be painted and appropriate restoration to remove paint from originally unpainted masonry surfaces is encouraged.
 - (4) **Exterior Cladding.** Cladding on building additions must be compatible with or complement the original portion of the building, and it must be of equivalent or better quality. Differences in cladding materials should be used to distinguish additions from original portions of historic buildings.
- 3.4.1.I **Exterior Modifications and Additions to Historic Buildings.** An applicant proposing exterior modifications to a historic building within this overlay district must follow the guidelines established in the [*Secretary of the Interior's Standards for the Treatment of Historic Properties*](#) or if deviating from those standards, the proposed deviations must conform to the standards below:
- (1) **Windows and Doors**
 - (a) Window and door openings must be retained in their existing location and dimensions except that modifications may be allowed:
 - (i) To restore a historic building that has been altered back to its original design, or
 - (ii) Where the modifications will not be visible from the street.
 - (b) Any replacement of windows or doors on a historic building must be in kind with a unit that matches the dimensions, design and appearance of the original except that modifications may be allowed as necessary to meet accessibility or code requirements.
 - (c) Additions must be designed with windows and doors that are compatible with the original portion of the building in terms of pattern, location, dimensions and design.
 - (d) Storm windows and doors must not obscure the characteristics of historic windows and doors.
 - (e) Shutters must be designed and sized to cover half the window opening and must be mounted so that they will or will appear to be functional.

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(2) Roofs

- (a) Original rooflines must be retained and not be obscured by additions except that modifications may be allowed:
 - (i) To restore a historic building that has been altered back to its original design, or
 - (ii) Where the modifications will not be visible from the street.
- (b) Any additional stories that will be added to a historic building must be set back from the original front facade as necessary to preserve the perceived building scale and massing as viewed from the street.
- (c) Replacement roofing on a historic building must be in kind with the original materials except that replacement with a material of equivalent or better quality that is appropriate to the age and design of the building may be allowed.

(3) Masonry

- (a) Original masonry elements on historic building facades must be retained and/or restored as necessary.
- (b) Modification of and damage to masonry elements must be avoided to the maximum extent feasible (i.e., drilling to mount signs or to run utility lines).
- (c) Unpainted masonry surfaces must not be painted and appropriate restoration to remove paint from originally unpainted masonry surfaces is encouraged.

(4) Exterior Cladding. Original cladding on historic buildings must be retained and/or restored to the maximum extent feasible, and if replacement is necessary it must conform to the following:

- (a) Replacement of exterior cladding may be allowed to restore a historic building that has been altered back to its original design.
- (b) Replacement cladding on a historic building that will be visible from the street must be in kind with the original materials (i.e., brick with brick of the same color and pattern, wood clapboard with wood clapboard of the same dimensions, etc.).
- (c) Replacement of wood siding with a vinyl or composite material may be allowed on contemporary buildings or on portions of a building that will not be visible from the street.
- (d) Replacement vinyl or composite materials must be high quality with a low-gloss finish that closely resembles painted wood, anti-weathering protection with color that goes all the way through the material, and dimensions (width, reveal, etc.) that closely match the original wood siding.
- (e) Original trim (cornices, window molding, etc.) must be retained and restored as necessary, and replacement cladding must not obscure original architectural details.

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3.4.1.J Demolition of Historic Buildings. Demolition of a historic structure within this overlay district will require approval from the Development Review Board as a conditional use in accordance with the following:

- (1) The applicant must demonstrate that the proposed development meets the conditional use criteria (see Figure 2-01) and the following:
 - (a) It is not feasible to rehabilitate and/or re-use the structure in order to earn a reasonable economic return from the property;
 - (b) It is not feasible to move the structure to a new location on or off the property;
 - (c) The non-feasibility of rehabilitation, re-use or relocation is not due to his/her failure to perform normal maintenance and repairs as necessary to prevent structural damage and deterioration;
 - (d) The non-feasibility of rehabilitation, re-use or relocation is not due to his/her failure to set reasonable rents or sales price, and/or diligently solicit and retain tenants, as applicable;
 - (e) The demolition is not primarily intended to allow development of additional surface parking; and
 - (f) The demolition is necessary to allow him/her reasonable use of the property or demolition is part of a redevelopment plan that will provide a clear and substantial benefit to the community.
- (2) The Development Review Board may waive the requirement to demonstrate conformance with Subparagraphs (1)(a) through (1)(d) above upon the applicant demonstrating that the redevelopment plan:
 - (a) Will result in new construction with a similar footprint to the structure or portion of a structure proposed for demolition; and
 - (b) Will allow for more efficient use of the site (ex., removing a single-story portion of a building and replacing it with new multi-story construction).
- (3) As a condition of approval for demolition, the Development Review Board may require the applicant to:
 - (a) Offer the structure for relocation for a period of up to 90 days.
 - (b) Provide the municipality with detailed documentation of the structure's historic and architectural features in accordance with the Vermont Division for Historic Preservation's guidelines for documenting historic buildings.
- (4) Nothing in this subsection will be interpreted to prevent the demolition of a structure or part of a structure that the municipality has determined is posing an immediate hazard to public health or safety.

3.4.1.K Waiver of Standards for Industrial or Public Buildings. An applicant may request a waiver of one or more design standards for an industrial or public building. The applicant must demonstrate that the standard(s) interferes with the intended functional use of the building and that the proposed design meets the overall purpose of this overlay district.

3.4.2 RIDGELINES, HILLSIDES AND STEEP SLOPES OVERLAY DISTRICT

- 3.4.2.A **Purpose.** The purpose of the Ridgeline, Hillside and Steep Slope (RHS) overlay district is to regulate development in higher elevation areas commensurate with community goals as expressed in the Municipal Plan.
- 3.4.2.B **Applicability.** The provisions of this section apply to all development (including pre-development site preparation) within this overlay district, which encompasses all land at or above 1,200 feet in elevation as shown on the Official Zoning Map, unless exempted in Subsection 3.4.2.C. Determination of the location of the 1,200-foot and 1,500-foot contour lines will be based on the best available elevation maps and data maintained at the Waterbury planning office unless the applicant provides a topographic survey prepared and stamped by a Vermont-licensed surveyor locating the applicable contour line(s).
- 3.4.2.C **Exemptions.** The following activities will not be subject to the provisions of this section:
- (1) Residential additions, accessory structures, camps whose combined footprint is less than or equal to 800 square feet; and
 - (2) Subdivision of land provided that no development will occur within this overlay district as follows:
 - (a) For proposed lots entirely located within this overlay district, all future development potential must be permanently removed through a conservation easement or similar legal mechanism; and
 - (b) For proposed lots partially located within this overlay district, a development envelop must be established on the plat that will restrict future development to the portion of the lot outside this district including all structures, roads or drives and utilities.
- 3.4.2.D **Allowed Uses and Dimensional Standards.** The use and dimensional standards of the base zoning district will apply to a lot within this overlay district except that any permitted use in the underlying zoning district will be a conditional use in this overlay district.
- 3.4.2.E **Classification.** The Zoning Administrator will classify an application for proposed development within this overlay district as follows:
- (1) **Minor.** Development that will disturb land at or above 1,200 feet but below 1,500 feet will be considered minor development. Minor projects must meet the conditional use criteria in Figure 2-01.
 - (2) **Major.** Development that will disturb land at or above 1,500 feet, pre-development site preparation, tree clearing or forestry activities above 1,500 feet (excluding forestry activities exempted in Subsection 1.2.6.C) will be considered major development. Major projects must meet the conditional use criteria in Figure 2-01 and the standards of this section. If site preparation for a major project has taken place prior to the applicant obtaining approval under this section, the Development Review Board may require all or a portion of the site to be restored to its pre-development state as a condition of approval.
 - (3) **Notification.** The Zoning Administrator must notify the applicant in writing of the project classification. The applicant or other interested person may appeal that decision to the Development Review Board as specified in Section 2.5.2.

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3.4.2.F **Application Requirements.** In addition to all other application materials required under these regulations and in order to demonstrate that proposed development conforms to the standards of this section, the applicant may need to provide supplemental materials including but not limited to:

- (1) **Grading Plan.** Existing and proposed contours of the land to be cleared and to a distance of 50 feet beyond the cleared areas. The plan must show all clearing limits and the location of all existing and proposed retaining walls more than 4 feet in height (see Subsection 4.1.11.E).
- (2) **Visibility Studies.** Line-of-sight sections, site photography, or other means to assess the visual impact of the proposed application. On-site measures such as pole, stake, or survey tape layouts of site structures may also be required.
- (3) **Natural Features.** Existing ponds, streams, rivers and other water features; necessary wildlife habitat, unique or fragile resources, and Class I and Class II wetlands located within and up to 50 feet beyond the boundary of the development site; areas characterized by slopes equal to or greater than 25 percent; and unique features such as rock outcroppings, gorges, and other geologic formations.

3.4.2.G **Development Standards.** The applicant must demonstrate that major development complies with all of the following:

- (1) **Screening.** Forest cover must be maintained to the greatest extent feasible. If there is to be tree-clearing for views from the site, it must be done so as to create view corridors. The Development Review Board may:
 - (a) Limit the amount of tree-clearing and require the planting of additional trees or other vegetation in order to assure adequate screening; and/or
 - (b) Require the applicant to submit a plan for maintaining and replacing designated trees during or after site development and construction.
- (2) **Access.** Access roads and utility corridors, including the conversion of logging roads to private roads or driveways, must use or share existing accesses and rights-of-way where feasible, and must follow existing contours and linear features (e.g., tree lines, stone walls) where feasible. In addition, they must be located to:
 - (a) Minimize stream and wetland crossings;
 - (b) Maximize the distance from streams;
 - (c) Minimize impacts on steep slopes; and
 - (d) Minimize the need for road or driveway corridors of widths greater than 50 feet, with the exception of limited lengths of the road or driveway where wider side slopes are needed to prevent erosion.
- (3) **Placement of Structures.** Consideration must be given to the location of proposed or potential structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams, and identified habitat and natural areas). The clustering of houses and other structures is encouraged to retain larger blocks of forest and fields and to help retain aesthetic character and wildlife habitat. The location of proposed or potential structures may be restricted to ensure that development:
 - (a) Is minimally visible, as defined in these regulations;

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- (b) Is designed so that the height of any structure does not exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure;
 - (c) Is located so that buildings are not placed on existing steep slopes equal to or greater than 25 percent;
 - (d) Is located down-grade of ridgelines and is designed so that the proposed structures must not break the skyline; and
 - (e) Is located at or near the edge of existing and new clearings and fields or along the perimeter of existing wooded areas.
- (4) **Exterior Lighting.** The off-site visual impacts of proposed exterior lighting must be minimized. All exterior lighting must conform to the standards of Section 4.3.2. Bollard, low-post lighting and low-level, indirect lighting is recommended. Spot or flood lights are prohibited.
- (5) **Forestry and Pre-Development Site Preparation.** Proposed forestry activities and pre-development site preparation must comply with the current version of the Vermont Department of Forests, Parks and Recreation's *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*, and all other applicable regulations.
- (6) **Natural Resources.** The proposed development must be designed and maintained so that there will be no undue adverse impact on, or undue fragmentation of, necessary wildlife habitat and wildlife travel corridors, unique or fragile resources, or natural and scenic resources.
- (7) **Building Design.** The massing of a single building or group of buildings must be designed to minimize visual impacts and contribute to, and harmonize with, the scenic quality of the surrounding landscape. Building materials, including windows and roofs should minimize year-round visibility, reflectivity, and night-time light impacts as viewed from off site.

3.4.3 FLOOD HAZARD AREA OVERLAY DISTRICT

3.4.3.A **Statutory Authorization and Requirement for Zoning Permit.** To effect the purposes of 10 V.S.A. Ch. 32, and in accordance with 24 V.S.A. Chapter 117 §4424, §4411 and §4414 there is hereby established an ordinance for Areas of Special Flood Hazard in Waterbury, Vermont.

3.4.3.B **Statement of Purpose.** It is the purpose of this section to:

- (1) Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood-related hazards;
- (2) Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property;
- (3) Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 §753 and the municipal hazard mitigation plan; and
- (4) Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

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3.4.3.C Lands to Which this Section Applies

- (1) **Regulated Flood Hazard Areas.** This section will apply to all areas in Waterbury that are identified as Areas of Special Flood Hazard, including Floodways, in and on the most current flood insurance studies and maps published or amended by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), 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 this section.
- (2) **Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas.** Where available, Base Flood Elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps will be used to administer and enforce this section. 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 must use data provided by FEMA, or State, or Federal agencies.

3.4.3.D Development Review in Hazard Areas

- (1) **Permit**
 - (a) A permit is required from the Zoning Administrator for all development in all areas defined in Subsection 3.4.3.C. A permit must only be issued for development that meets all applicable Development Standards in Subsections 3.4.3.E and 3.4.3.F as well as all other requirements of this section. Development that requires Development Review Board approval must have such approvals prior to the issuance of a permit by the Zoning Administrator.
 - (b) Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin, as described in Paragraph 3.4.3.G(7).
- (2) **Administrative Permit Review.** The following development in Special Flood Hazard Areas requires only administrative review by the Zoning Administrator for conformance with all applicable Development Standards in Subsections 3.4.3.E and 3.4.3.F:
 - (a) Non-substantial improvements;
 - (b) Small accessory structures 200 square feet or less;
 - (c) Additions to existing structures not requiring fill;
 - (d) Development related to on-site septic or water supply systems not requiring fill;
 - (e) Grading and excavation of areas less than or equal to 10,000 sq. ft. of total disturbance, excluding any fill, that will not raise the Base Flood Elevation by any amount, that is not for the purpose of creating a pond, and that does not involve the placement of fill.
 - (f) Building utilities;
 - (g) At-grade parking for existing buildings outside of Floodways;
 - (h) Recreational vehicles not exempt from regulation under this section;
 - (i) Subdivisions fewer than four lots, including the original parcel, where no

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development is proposed within Special Flood Hazard Areas; and

- (j) Road improvements outside of Floodways.

(3) Prohibited Development

- (a) The following development is prohibited in Special Flood Hazard Areas:

- (i) Junk yards;
- (ii) Fully enclosed areas that are below grade on all sides (including below grade basements and crawl spaces) that do not comply with the Development Standards in Subsections 3.4.3.E and 3.4.3.F; and
- (iii) All development not exempted or allowed in the applicable zoning district.

- (b) The following development is prohibited in Floodways only:

- (i) New structures;
- (ii) Storage facilities;
- (iii) Small appurtenant structures larger than 200 square feet; and
- (iv) The placement of fill, including fill placed to elevate a building or placed inside a basement.

(4) Development Review Board Review. The Development Review Board will review applications for the following development in Special Flood Hazard Areas for conformance with all applicable Development Standards in Subsections 3.4.3.E and 3.4.3.F of this section:

- (a) New residential or non-residential structures (including the placement of manufactured homes);
- (b) The substantial improvement, elevation, relocation, or floodproofing of existing structures;
- (c) Small appurtenant structures larger than 200 square feet;
- (d) Additions to existing structures in Floodways that require fill;
- (e) Grading and excavation of areas greater than 10,000 sq. ft. of total disturbance or, that will raise the Base Flood Elevation by any amount or for the purpose of creation of a pond;
- (f) The placement of fill, including fill placed to elevate a building or placed inside a basement;
- (g) Bridges, culverts, channel-management activities, or public projects that are functionally dependent on stream access or stream crossing;
- (h) Road improvements in Floodway;
- (i) Storage facilities; and
- (j) At-grade parking in Floodways.

(5) Exempted Activities. The following activities are exempt from regulation under this section:

- (a) The removal of a building or other structure in whole or in part;
- (b) Maintenance of existing roads and stormwater drainage systems;

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- (c) Recreational vehicles that are fully licensed and ready for highway use, that are onsite for fewer than 180 consecutive days, and that are not placed on sites within Zones A, A1-30, AH, and AE;
 - (d) 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).
- (6) **Nonconforming Structures and Uses.** The Development Review Board will review requests for the repair, relocation, replacement, or enlargement of a nonconforming structure within a Special Flood Hazard Area for conformance with the following limitations and all applicable Development Standards in Subsections 3.4.3.E and 3.4.3.F of this section.
- (a) A structure that is located in Special Flood Hazard Area and is destroyed may be reconstructed. All reasonable effort must be taken to place the new structure in a less hazardous location on the parcel.
 - (b) An individual manufactured-home lot in an existing manufactured home park that is vacated will not be considered a discontinuance or abandonment of a nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this section.
 - (c) Any fuel storage tank that does not fully conform to the requirements set forth in Paragraph 3.4.3.E(3) must be brought fully into compliance with those requirements no later than the time when any development occurs on the parcel where the tank is located. A nonconforming tank may not be altered, expanded, maintained, repaired, rebuilt or replaced without being brought into compliance with Paragraph 3.4.3.E(3). A structure containing a nonconforming fuel storage tank may not be relocated or enlarged unless the nonconforming tank is brought into compliance with Paragraph 3.4.3.E(3). A fuel storage tank that is destroyed by any cause may not be replaced unless the replacement tank is brought into compliance with Paragraph 3.4.3.E(3). With respect to nonconforming fuel storage tanks, this subsection will take precedence over any contrary provision, and any more permissible provision of Section 1.3.3 of the Bylaws, as well as any other contrary or more permissible provision found elsewhere in these Bylaws.

3.4.3.E Development Standards in Special Flood Hazard Areas

- (1) All development within the Special Flood Hazard Areas must:
 - (i) Be reasonably safe from flooding; and
 - (ii) Neither reduce the effective flood storage volume of the Special Flood Hazard Area nor create a net increase in the Base Flood Elevation.
- (2) Recreational vehicles placed on sites within Zones A, A1-30, AH, and AE must:
 - (i) Be onsite for fewer than 180 consecutive days; or
 - (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (iii) Meet the elevation and anchoring requirements in Paragraph (6) below.

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- (3) All fuel storage tanks within the Special Flood Hazard Area must meet the requirements set forth in Paragraphs (4)(a) through (4)(d) below and must be either elevated or floodproofed.
- (4) All substantial improvements and new construction (including fuel storage tanks) within the Special Flood Hazard Areas must meet the following criteria:
 - (a) Be designed, operated, maintained, modified and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure, including all foundations;
 - (b) Be constructed with materials resistant to flood damage;
 - (c) Be constructed by methods and practices that minimize flood damage;
 - (d) Be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Any major components, including those listed above, such as electrical panels, furnaces, hot water heaters, and water pumps, where water can enter the component, must be located at least two feet above the 1% annual chance (100-year) flood level for existing structures and at least two feet above the 1% annual chance (100-year) flood level for new structures;
 - (e) Provide adequate drainage to reduce exposure to flood hazards;
 - (f) New and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters in the systems;
 - (g) New and replacement sanitary sewer systems and onsite waste disposal systems must obtain a permit from the Agency of Natural Resources prior to commencement of construction.
 - (h) All new subdivisions and other proposed developments that are greater than 50 lots or 5 acres, whichever is the lesser must include within such proposal base flood elevation data. All new subdivisions must:
 - (i) Be consistent with the need to minimize flood damage;
 - (ii) Have public utilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and
 - (iii) Provide adequate drainage to reduce exposure to flood hazards.
 - (i) The fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings must be no higher than one foot above the finished floor elevation. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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- (5) In Zones A, and A1-30 where Base Flood Elevations and/or floodway limits have not been determined, new construction and substantial improvement must 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 at any point within the Special Flood Hazard Area. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- (6) All new construction of residential structures within Zones A, A1-30 and AE must have the lowest floor of all residential structures (including basement) elevated to at least two feet above the base flood level. All substantial improvements of residential structures within Zones A, A1-30 and AE, with the exception of historic structures, must have the lowest floor of all residential structures (including basement) elevated to at least two feet above the 1% annual chance (100-year) flood level. All manufactured homes to be placed within Zones A, A1-30, A, and AE must be installed using methods and practices which minimize flood damage. For purposes of this requirement, manufactured homes must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least two feet above base flood elevation, and they must be anchored to an adequately anchored foundation to resist flotation collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (7) All new construction and substantial improvements of non-residential structures within Zones A, A1-30 and AE, with the exception of historic structures, must comply with the following requirements:
 - (a) The structure must either:
 - (i) Have the lowest floor (including basement) of new construction elevated to at least two feet above the base flood level, and the lowest floor (including basement) of substantial improvements elevated to at least two feet above the 1% chance (100-year) flood level; or
 - (ii) Be designed so that below the elevation of two feet above the base flood level the structure is water tight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy to a point at least two feet above the base flood level.
 - (b) Where a non-residential structure is intended to be made watertight below the elevation of two feet above the base flood level, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Paragraph (a)(ii) above.
- (8) The substantial improvement of any historic structure located in the Special Flood Hazard Area may be reviewed under Subsection 3.4.3.L, Variances.
- (9) Adequate drainage paths must be required around structures on slopes to guide floodwaters around and away from proposed structures.

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- (10) The placement of fill in Special Flood Hazard Areas, excluding the placement of material in basements for structures with a footprint of 5,000 sq. ft. or less, must require certification from a professional engineer that the amount and location of the fill will not elevate the Base Flood Elevation by any amount and may require compensatory storage or alternate flood attenuation. NOTE: The placement of fill in Floodways is prohibited.
- (11) Compensatory storage or alternate flood attenuation methods utilized for development, including the placement of structures and/or fill, must:
 - (a) Not increase the Base Flood Elevation or decrease Special Flood Hazard Area storage capacity. Development that displaces floodwater storage in the Special Flood Hazard Area must provide compensatory storage to offset the impacts of the proposal, when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge. Volumetric analyses and supporting data must be provided by the applicant and certified by a registered professional engineer.
 - (b) Provide equivalent compensatory flood volume or other flood mitigation features at equivalent elevations to that flood storage capacity being displaced.
 - (c) Compensatory storage and all other flood attenuation measures must be provided in the same construction season as when the displacement of flood storage volume occurs.
 - (d) Require a certification by a licensed professional engineer supported by hydraulic or hydrologic technical data, or an explanation why an explanation was not required, based on the computer model utilized to develop the Flood Insurance Rate Maps and the results tabulated in the related Flood Insurance Study.
 - (e) Exceptions. The compensatory storage or alternate flood attenuation requirements may be waived for:
 - (i) Additions and accessory structures that are less than or equal to 200 sq. ft. in footprint provided that the designs will have no more than a minimal effect on floodwater storage and will not divert floodwaters onto adjacent property.
 - (ii) Designs that do not effect on floodwater storage include open foundation designs, and utility work that is largely below grade.
 - (iii) Minor above ground improvements such as fences or poles that minimally displace or divert floodwaters.
 - (iv) Replacement structures provided that there is no increase in the structure's footprint.
 - (v) Replacement structures relocated to a less hazardous location within the Special Flood Hazard Area provided that there is no increase in the structure's footprint
- (12) The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse must be maintained, and any alteration or relocation must not result in any decrease of stream stability.
- (13) Bridge and culverts, which by their nature must be placed in or over the stream, must obtain a stream alteration permit from the Agency of Natural Resources, if required.

3.4.3.F Development Standards in Floodways

- (1) Encroachment 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 registered 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; and
 - (b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- (2) Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

3.4.3.G Application Submission Requirements. Applications for development in Areas of Special Flood Hazard must include:

- (1) Base Flood Elevation data for all subdivisions, new construction, and substantial improvements;
- (2) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new construction or substantial improvement of structures consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community;
- (3) Where floodproofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement will be floodproofed;
- (4) Where an application requires Development Review Board review under Paragraph 3.4.3.D(4), the application must include certification by a registered professional engineer demonstrating that the proposed development will not increase Base Flood Elevations. The demonstration of no net increase in the Base Flood Elevation must be supported by technical data that conforms to standard hydraulic engineering principals and certified by a registered professional engineer. Compensatory storage of displaced flood waters must be above the water table, hydrologically equivalent, and serve to reduce flood and storm water impacts. Development may not result in any adverse effects on existing structures during the occurrence of the base flood. A floodproofed structure must meet the floodproofing criteria of this section;
- (5) Where a development proposal is subject to one or more of the requirements set forth in Subsection 3.4.3.D that require new construction, substantial improvement or other development to be located at or above a Base Flood Elevation, and in cases where development is otherwise required to occur with reference to a specified elevation, the application for a permit must include a certification by a registered professional engineer demonstrating compliance with the elevation requirements consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community. Thereafter, the permittee must submit a FEMA Elevation Certificate, where applicable, or other certification providing as-built certification from a registered professional engineer or architect as to such elevation at the time the permittee applies for a Certificate of Completion;
- (6) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;

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- (7) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet must identify all State and Federal agencies from which permit approval is required for the proposal, and must be filed as a required attachment to the permit application. The identified permits, or letters indicating that such permits are not required, must be submitted to the Zoning Administrator and attached to the permit before work can begin; and
- (8) Proposed floodproofing, as required in applicable portions of Subsection 3.4.3.D, must be supported by a FEMA Floodproofing Certificate.
- (9) In addition, the Development Review Board will require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:
 - (a) Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community; and the relation of the above to the location of the channel, Floodway, and base flood elevation; and
 - (b) Specifications for building construction and materials, floodproofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

3.4.3.H Procedures

- (1) Any applicant for development subject to review by the Development Review Board in the Areas of Special Flood Hazard must notify adjacent landowners by certified mail of the nature of the application and the upcoming Development Review Board review at least fifteen days prior to such review. The applicant must submit copies of certified mail receipts indicating that all adjacent landowners have been sent the notice, and a copy of the notice sent.
- (2) Prior to issuing a permit for development requiring Development Review Board review under Paragraph 3.4.3.D(4), a copy of the application and supporting information must be submitted by the Zoning Administrator to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. Chapter 117 §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.
- (3) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application must 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 must 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.

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- (4) Prior to the construction of any farm structures in Areas of Special Flood Hazard, the applicant must notify the Zoning Administrator in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

3.4.3.I Interpretation of District Boundaries. The Zoning Administrator will determine the boundaries of any designated Area of Special Flood Hazard by scaling distances on the latest Flood Insurance Rate Map. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment (LOMA) from FEMA will constitute proof that the development is outside the Special Flood Hazard Area.

3.4.3.J Base Flood Elevations and Floodway Limits

- (1) In Zones A and A1-30 where Base Flood Elevations and/or floodway limits are available, Base Flood Elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps will be used to administer and enforce this section.
- (2) In Zones A, AE, and A1-30 where Base Flood Elevations and/or floodway limits have not been determined, development must 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 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 registered professional engineer.

3.4.3.K Recordkeeping. The Zoning Administrator must properly file and maintain a record of:

- (1) All permits issued for development in Areas of Special Flood Hazard;
- (2) Elevation Certificates 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 or substantially improved buildings (not including appurtenant structures) in Special Flood Hazard Areas;
- (3) The elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) to which buildings have been flood proofed;
- (4) All floodproofing and other certifications required under this section; and
- (5) All decisions of the Development Review Board including variances and violations and all supporting findings of fact, conclusions and conditions.

3.4.3.L Variances

- (1) Variances from the requirements of this section for development other than for the substantial improvement of historic structures located in Special Flood Hazard Areas must only be granted by the Development Review Board if the development conforms with the following provisions: 24 V.S.A. Chapter 117 §4469(d); and the criteria for granting variances found in 44 CFR, Section 60.6(a) of the National Flood Insurance Program regulations, which are hereby adopted by reference and declared to be part of this section. The requirements of 24 V.S.A. Chapter 117 §4469(a) do not apply to the review of variances for the substantial improvement of non-historic structures.

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- (2) Variances from the requirements of this section for the substantial improvement of historic structures located in Special Flood Hazard Areas must only be granted by the Development Review Board if the development conforms with the following provisions: 24 V.S.A. Chapter 117 §4469(d) and the criteria for granting variances found in 44 CFR, Section 60.6(a) of the National Flood Insurance Program regulations, which are hereby adopted by reference and declared to be part of this section. The requirements of 24 V.S.A. Chapter 117 §4469(a) do not apply to the review of variances for the substantial improvement of historic structures. No variance must be granted unless the following additional requirements are met:
 - (a) The variance is the minimum necessary to preserve the historic character and design of the structure; and
 - (b) The substantial improvement must not preclude the structure's continued designation as a historic structure.
 - (3) Any variance granted for development in Special Flood Hazard Areas must not increase Base Flood Elevation other than as allowed by this section. Furthermore, the applicant must be notified 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 may result in increased flood insurance premiums up to amounts as high as \$25 for every \$100 of insurance coverage. Such notification must be maintained with a record of all variance actions.
- 3.4.3.M **Warning of Disclaimer of Liability.** This section does not imply that land outside of the Areas of Special Flood Hazard or land use permitted within such districts will be free from flooding or flood damages. This section will not create liability on the part of the Town of Waterbury or any Town official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made there under.
- 3.4.3.N **Validity and Severability.** If any portion of this section is held unconstitutional or invalid by a competent court, the remainder of this section will not be affected.
- 3.4.3.O **Precedence of this Section.** The provisions of this section will not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this section imposes a greater restriction, the provisions of this section will take precedence.
- 3.4.3.P **Certificate of Completion.** In accordance with 24 V.S.A. Chapter 117 §4449, it will be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Areas until a certificate of completion is issued therefore by the Zoning Administrator stating that the proposed use of the structure or land conforms to the requirements of this section. A certificate of completion is not required for structures that were built in compliance with the regulations at the time of construction and have not been improved since the adoption of this regulation. Within 14 days of the receipt of the application for a certificate of completion, the Zoning Administrator must inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated municipal approvals. If the Zoning Administrator fails to grant or deny the certificate of completion within 14 days of the submission of the application, the certificate will be deemed issued on the 15th day. If a certificate of completion cannot be issued, notice will be sent to the owner and copied to the lender.

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3.4.3.Q Enforcement and Penalties

- (1) It will be the duty of the Zoning Administrator to enforce the provisions of this section. Whenever any development occurs contrary to this section, the Zoning Administrator, in his discretion, will institute appropriate action in accordance with the provisions of Section 310 of the Zoning Regulations, and 24 V.S.A. §1974a, §4451, and §4452, to correct the violation.
- (2) No action may be brought unless the alleged offender has had at least a seven-day warning notice of violation by certified mail. A copy of the notice of violation will be mailed to the State NFIP Coordinator. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice must state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.
- (3) If the structure is still noncompliant after the seven-day opportunity to cure has passed, the Zoning Administrator must submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration must consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (4) Violations of the Accepted Agricultural Practices must be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Chapter 215 §4812.

4 DEVELOPMENT STANDARDS

4.1 General Regulations

4.1.1 APPLICABILITY

4.1.1.A All development must conform to the standards of this chapter.

4.1.2 ACCESS

4.1.2.A **Applicability.** All land being developed must have vehicular access from a maintained road as defined in Paragraph 5.1.3.R(4) in accordance with the provisions of this section. For lots without frontage on a maintained road, also see Paragraph 3.1.6.E(1).

4.1.2.B **Access Permit.** An applicant for development to be served by a new curb cut on a town road or state highway must provide the Zoning Administrator with a copy of an access permit or letter of intent from the town or state for the curb cut, as applicable, before the Zoning Administrator may issue a zoning permit.

4.1.2.C **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of Waterbury's Public Works Specifications, the Public Works Specifications will take precedence.

4.1.2.D **Curb Cuts.** New and modified curb cuts must conform to the following:

- (1) **Number.** A lot must not be served by more than one curb cut except that:
 - (a) The Development Review Board may approve a waiver allowing more than one curb cut if the applicant can demonstrate that an additional curb cut is necessary to:
 - (i) Accommodate unique physical conditions on the property, including inadequate space to accommodate turning a vehicle around;
 - (ii) Meet minimum standards for emergency access;
 - (iii) Provide access that conforms to the minimum standards of the Americans with Disabilities Act; or
 - (iv) Improve the safety of traffic circulation within the site.
 - (b) The Development Review Board may require a secondary or emergency access when deemed necessary to protect public safety.
- (2) **Width.** The width of a curb cut as measured at the edge of the road right-of-way must not exceed the distance specified below unless otherwise required by the Vermont Agency of Transportation or recommended by the Director of Public Works (this will include reducing the width of existing nonconforming curb cuts if they are modified or resurfaced):
 - (a) 12 feet for curb cuts serving single- and two-family dwellings;
 - (b) 16 feet for curb cuts serving multi-family dwellings;
 - (c) 20 feet for curb cuts serving non-residential uses not frequently accessed by

trailer trucks; and

- (d) 24 feet for curb cuts serving non-residential uses frequently accessed by trailer trucks.
 - (3) **Sidewalks.** Where a sidewalk exists or will be constructed along the frontage, it must continue across the curb cut (this will include replacement of missing sidewalks across existing curb cuts if they are modified or resurfaced).
 - (4) **Spacing.** There is no spacing requirement for curb cuts serving single- and two-family dwellings. All other new curb cuts must conform to the standards below unless otherwise recommended by the Director of Public Works:
 - (a) A new curb cut must be aligned with any existing curb cut on the opposite side of the road whenever feasible, and if not feasible, the centerlines must be offset by at least 30 feet.
 - (b) A new curb cut must be separated from existing curb cuts on the same side of the road by at least 45 feet (as measured from centerline to centerline).
- 4.1.2.E **Cross Access.** Applicants proposing to subdivide or develop commercial or industrial lots must provide a two-way access connection to abutting undeveloped, commercial or industrial lots whenever physically feasible (this will not be interpreted to include abutting lots that are in a residential or rural zoning district). As a condition of site plan approval, the applicant may be required to:
- (1) Fully construct the cross access to the edge of his/her property;
 - (2) Partially construct the cross access to the edge of his/her property (ex. install the base but not the final surface); or
 - (3) Provide an easement and legally binding agreement for construction of the access at a later time (when the access would also be constructed on the abutting property).
- 4.1.2.F **Sight Distance.** Trees, shrubs, hedges, fences, walls, signs and similar structures must not obscure vision above a height of 3 feet at an intersection. This will not be interpreted to apply to buildings constructed in accordance with district standards.
- 4.1.2.G **Class 4 Roads and other Unimproved Rights-of-Way.** A Class 4 road or other unimproved right-of-way is not a maintained road as defined in Paragraph 5.1.3.R(4) and cannot be used to meet the access requirements of these regulations. Applicants may propose to upgrade a Class 4 road or other unimproved right-of-way to a Class 3 road at their expense and in accordance with town policies and standards so that it may serve to provide access to land or proposed development.
- 4.1.3 CAMPING AND CAMPING UNITS**
- 4.1.3.A **Applicability.** Any parcel of land that is occupied by or designed to accommodate more than 3 camping units will be considered a campground and subject to all applicable provisions of these regulations applicable to campgrounds.
- 4.1.3.B **Camping as an Accessory Use.** A property owner may locate up to 3 camping units (campers, travel trailers, RVs, cabins, lean-tos, tents, etc.) on his/her residential property to be used for non-commercial, recreational purposes in accordance with the following:

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- (1) Such units must not be occupied for more than 30 days total in any calendar year unless the property owner obtains a zoning permit as specified in Paragraph (2) below.
- (2) The Zoning Administrator may issue a zoning permit to allow up to 3 camping units to be located on a residential lot and occupied for a maximum of 90 days total in any calendar year as an accessory use of residential property.

4.1.3.C Camping as a Principal Use. A property owner may apply for a zoning permit to allow the placement of 1 camping unit as the principal use of an otherwise undeveloped lot in accordance with the following:

- (1) The proposed development may include the construction of a permanent pad, accessory structures and installation of utilities that conform to the standards of these regulations for similar structures and uses on single-family residential lots.
- (2) The applicant must demonstrate that the camping unit conforms to the water supply and wastewater disposal standards of Section 4.1.19.
- (3) The camping unit may remain on the lot year-round, but it may only be occupied for a maximum of 180 days total in any calendar year.

4.1.3.D All other camping uses will be considered a campground and will be regulated as such under these regulations.

4.1.4 CONSTRUCTION-RELATED STRUCTURES AND ACTIVITIES

4.1.4.A Applicability. Temporary construction-related structures are permitted in any district on the site of permitted development or an approved staging area in accordance with the provisions of this section. Construction-related structures may include, but are not limited to, construction offices, construction trailers, construction dumpsters, storage buildings, portable toilets, fences and signs.

4.1.4.B Permitting Process. The permit for the development will include approval of any construction-related structures. Construction-related structures must be removed from the property promptly upon completion of work.

4.1.4.C Staging Areas. The Zoning Administrator may issue a zoning permit for the temporary use of a property as a staging area for an off-site construction project.

4.1.4.D Dumpsters. Construction dumpsters must be located and used in accordance with the following:

- (1) Construction dumpsters must not impede pedestrian or vehicular access or otherwise create an unsafe condition for pedestrian and vehicular traffic.
- (2) Construction dumpsters must be labeled with the name and telephone number of the owner, and as being for construction or demolition materials only.
- (3) Construction dumpsters must be routinely inspected and emptied as needed.

4.1.4.E Portable Toilets. Portable toilets must conform to the following:

- (1) Portable toilets must be located to provide the maximum practical setback and screening from roads and adjacent properties.

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- (2) Portable toilets must be labeled with the name and telephone number of the owner.
- (3) Portable toilets must be routinely inspected and pumped out as needed.

4.1.5 DEMOLITION

4.1.5.A **General Standards.** Within 60 days after demolition is complete:

- (1) All structural materials and debris must be removed from the site;
- (2) The site must be restored to a natural grade; and
- (3) Groundcover must be re-established to prevent erosion.

4.1.5.B For demolition of a historic structure within the Design Review Overlay District, also see Subsection 3.4.1.J.

4.1.6 DRIVEWAYS

4.1.6.A **Applicability.** New, extended or modified driveways serving proposed development must conform to the standards of this section. A driveway may serve not more than 2 lots or principal buildings (a travel way serving more than 2 lots or principal buildings will be considered a road).

4.1.6.B **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of the Waterbury Public Works Specifications, the Public Works Specifications will take precedence.

4.1.6.C **Technical Review.** The Zoning Administrator will forward all applications for new, extended or modified driveways to the Director of Public Works and the Director of Public Safety for review and comment. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.

4.1.6.D **Design Standards.** Driveways must conform to the standards of Figure 4-01 and the following:

- (1) **Angle.** Driveways must intersect the road at an angle as close to 90 degrees as feasible given site-specific conditions. Driveways must not intersect the road at an angle of less than 75 degrees if designed for two-way traffic or 60 degrees if designed for one-way traffic.
- (2) **Width.** Driveways must not exceed a maximum paved width of 24 feet, exclusive of any turnaround area. The Development Review Board may approve a waiver to allow a wider driveway if the applicant can demonstrate that it is necessary to:
 - (a) Accommodate unique physical conditions on the property;
 - (b) Serve trailer trucks;
 - (c) Meet minimum standards for emergency access;
 - (d) Meet the minimum standards of the Americans with Disabilities Act; or
 - (e) Provide improved traffic circulation within the site.
- (3) **Drainage.** Driveways must:
 - (a) Not block the flow of drainage in gutters or drainage ditches or pipes.

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- (b) Not discharge run-off onto the traveled portion of the road.
 - (c) Not generate run-off that would unreasonably contribute to an accumulation of stormwater or that would exceed the capacity of downstream facilities or infrastructure.
 - (d) Be installed with culverts, where necessary, designed to carry run-off under the driveway. Such culverts must be sized to convey anticipated peak stormwater flows and be at least 18 inches in diameter, extend at least 2 feet beyond the driveway edges, and installed to minimize erosion damage at the inlet and outlet. It will be the applicant's responsibility to install and maintain such culverts.
- (4) **Pull-Offs.** A driveway longer than 450 feet and with a paved width of less than 20 feet must be constructed with pull-off areas not more than 450 feet apart adequately sized and surfaced to accommodate emergency vehicles.
- (5) **Turnarounds.** A driveway longer than 300 feet must terminate with a parking and turnaround area not more than 50 feet from the principal building that is adequately sized and surfaced to accommodate emergency vehicles.

Figure 4-01. Driveway Design Standards

	Minimum Paved Width	Maximum Grade
Not more than 450 ft long	9 ft	15% average over whole length
More than 450 ft long	10 ft	12% over whole length

4.1.7 DRIVE-THROUGH FACILITIES

4.1.7.A Drive-through facilities, where specifically allowed under these regulations, must be designed in accordance with the following:

- (1) Stacking lanes (where vehicles queue for service) and service areas must be located to the side or rear of the building.
- (2) Stacking lanes must be clearly signed, marked and separated from travel lanes.
- (3) Stacking lanes must not block access to service drives, parking spaces or loading areas.
- (4) Drive-through traffic must not cause congestion or other unsafe conditions within the site or on the road.
- (5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
- (6) Stacking lanes and service areas must not be located within minimum required setbacks.
- (7) Drive-through facilities must be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

4.1.8 DWELLING UNITS

4.1.8.A **Applicability.** The standards of this section apply to any structure or portion of a structure used or intended to be used as a dwelling unit.

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4.1.8.B Minimum Unit Size. The minimum size of a dwelling unit must not be less than:

- (1) 150 square feet for a studio or efficiency unit (one open living area that includes kitchen, living and sleeping quarters with a separate bathroom);
- (2) 220 square feet for a one-bedroom unit; or
- (3) 220 square feet plus an additional 70 square feet for each additional bedroom (290 sf for two-bedroom, 360 sf for three-bedroom, etc.).

4.1.8.C Cooking and Sanitation Facilities. All dwelling units must have safe, functioning cooking and sanitation facilities in accordance with the following:

- (1) A dwelling unit must contain permanent bathroom facilities. A bathroom must be a separate room in which there is a toilet, sink, and a shower or bathtub.
- (2) A dwelling unit must contain permanent kitchen facilities. A kitchen must be a room or portion of a room in which there is a sink, refrigerator, and one or more appliances for heating food.
- (3) Dwelling units within a multi-family building must have either utility connections for a washing machine and clothes dryer in each unit or there must be a common laundry room in the building with washing machines and clothes dryers accessible to residents.

4.1.8.D Parking. All dwelling units must have parking in accordance with Section 4.3.4.

4.1.8.E Water Supply and Wastewater Disposal. All dwelling units must have safe, functioning water supply and wastewater disposal systems in accordance with Section 4.1.19.

4.1.8.F Trash Disposal. All dwelling units must have trash, recycling and compost storage in accordance with Section 4.3.8.

4.1.9 ENERGY GENERATION FACILITIES

4.1.9.A Applicability. The standards of Subsections 4.1.9.B through 4.1.9.E apply to energy generation facilities not exempted in Section 1.2.6 (i.e., not connected to the grid). The standards of Subsection 4.1.9.F apply to grid-connected solar electric generation facilities regulated by the Public Utilities Commission.

4.1.9.B Setbacks. An energy generation apparatus must be set back a distance equal to the its height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.

4.1.9.C Screening. A ground-mounted energy generation apparatus not located on a single- or two-family residential property that will be visible from the road or abutting properties must be screened in accordance with Subsection 4.3.7.E.

4.1.9.D Height. The height of an energy generation apparatus must conform to the following:

- (1) The height of ground-mounted solar energy generating apparatus must not exceed 36 feet.
- (2) The height of a ground-mounted wind energy generating apparatus must not exceed 120 feet.

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- (3) An energy generating apparatus mounted on a building wall must not extend above the lowest portion of the roof.
- (4) An energy generating apparatus mounted on a building roof must not extend more than 12 feet above the roof surface.

4.1.9.E **Removal.** A facility that has been out-of-service for more than 180 days will be considered abandoned and the owner must remove it unless he/she can demonstrate to the Zoning Administrator an intent to resume the energy generation use at a specified future time.

4.1.9.F **Screening Requirements.** A solar electric generation facility regulated by the Public Utilities Commission must meet the screening requirements of Subsection 4.3.7.E for utilities and service areas.

4.1.10 EROSION CONTROL

4.1.10.A **Purpose.** This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction and minimize erosion and sedimentation of downstream water bodies.

4.1.10.B **Applicability.** All construction activities that will disturb soil are subject to the provisions of this section and must implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure or downstream water bodies as described in the general standards below. Further:

- (1) **Projects Subject to State Permitting.** Development that obtains a state construction general or individual permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.
- (2) **Projects Disturbing > 10,000 sf.** Applicants must submit and implement a professionally prepared erosion control plan for construction activities that will disturb more than 10,000 square feet of soil in accordance with the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*.

4.1.10.C **Public Works Specifications.** In the case of a conflict between a provision of this section and a provision of any duly adopted Public Works Specifications, the Public Works Specifications will govern.

4.1.10.D **General Standards.** All construction activities that will disturb soil must be undertaken in accordance with the following practices (for further guidance see the Vermont Agency of Natural Resource's *Low Risk Site Handbook for Erosion Prevention and Sediment Control*):

- (1) Limit the size of the construction area to the minimum necessary to accommodate the proposed development.
- (2) Preserve significant existing trees within the construction area where feasible. Trees to be preserved within the construction area should be protected by fencing that at a minimum encloses the area around their drip line.
- (3) Mark site boundaries to identify the limits of construction (including storage and access areas) with flags or fencing. No soil disturbance or compaction should occur outside the delineated construction area.

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- (4) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
- (5) Stabilize and maintain any construction entrance to prevent mud from being tracked onto roads.
- (6) Install silt fences as necessary to intercept runoff and allow suspended sediment to settle out on the downslope side of construction activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
- (7) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and/or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or water bodies.
- (8) Treat and filter any water pumped out of the construction area before allowing it to flow off the site or to be discharged to a storm drain or water body.
- (9) Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
- (10) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
- (11) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
- (12) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
- (13) Till any compacted soil prior to the final seeding and mulching.
- (14) Stockpile the topsoil removed during construction and spread it back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it should be amended as needed.

4.1.11 FENCES AND WALLS

4.1.11.A **Applicability.** The provisions of this section apply to all fences and walls not exempted in Section 1.2.6.

4.1.11.B **Setbacks.** Fences and walls may be located within district setbacks.

4.1.11.C **Height.** The maximum height of fences and non-retaining walls will be as follows unless otherwise approved by the Development Review Board in order to provide adequate screening or security:

- (1) 4½ feet if located between the street and the principal building frontline.
- (2) 6½ feet if located to the rear or side of the principal building.
- (3) A fence or wall must not obscure vision above a height of 3 feet at an intersection.

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- (4) The height of a fence will be measured from the highest part of the fence (including any structural or decorative elements) to the grade immediately below at the point along the fence where that distance is the greatest.

4.1.11.D Materials. Unless otherwise approved by the Development Review Board, a fence or wall:

- (1) Must be constructed of durable materials such as wood, chain link, stone, rock, concrete, brick, decorative wrought iron;
- (2) Must be constructed so that any support posts are to the inside and the “finished” or “good” side faces out; and
- (3) Must not be constructed of barbed wire, razor wire or similar materials capable of inflicting significant physical injury except as required to meet state or federal regulations.

4.1.11.E Retaining Walls. Retaining walls must be located and designed as follows:

- (1) No individual retaining wall may exceed 12 feet in height except that pre-existing retaining walls more than 12 feet in height may be repaired and reconstructed to their original height.
- (2) All retaining walls more than 4 feet in height must be designed by a qualified professional, and must be topped by a fence, hedge or similar barrier. For a system of terraced walls, only the uppermost wall will require a barrier provided that the terraced sections below are not readily accessible from other portions of the property.
- (3) The height of a retaining wall will be measured from the grade at the base of the face of the wall to the grade at the back of the wall immediately above at the location along the wall where those two grades are the furthest apart.
- (4) Terracing of retaining walls is encouraged. To be considered separate walls, two retaining walls must be separated by a horizontal distance of at least 8 feet.

4.1.12 GRADING, EXCAVATION OR FILL

4.1.12.A Applicability. The provisions of this section apply to all grading, excavating or filling of land, including site preparation activities, not exempted in Section 1.2.6 or associated with an extraction operation as defined under these regulations. A property owner must obtain a zoning permit for such grading, excavating or filling of land in accordance with the provisions of this section.

4.1.12.B Waterways or Wetlands. Excavation and fill is prohibited within surface waters, wetlands and any required buffers to surface waters or wetlands unless the proposed activity will be subject to state permitting and the applicant demonstrates that he/she has obtained all required state permits.

4.1.12.C Fill Material. The use of any material other than uncontaminated soil for fill is prohibited unless the proposed fill will subject to state permitting, in which case the conditions of the state permit regarding the fill material will prevail.

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4.1.12.D **General Standards.** Grading, excavation and fill must conform to the following unless otherwise approved by the Development Review Board as an element of proposed development subject to a development approval and upon the applicant submitting professionally prepared grading, erosion control and stormwater management plans:

- (1) Grading, excavation or fill is prohibited within zoning district setbacks;
- (2) Grading, excavation or fill must not alter the pre-existing grade by more than 4 feet; and
- (3) Grading, excavation or fill must not result in a slope steeper than a 3:1 (horizontal-to-vertical) ratio.

4.1.13 PONDS

4.1.13.A **Applicability.** The provisions of this section apply to any constructed pond with a surface area of more than 200 square feet or a maximum depth of more than 4 feet. A property owner must obtain a zoning permit to construct, expand or modify such a pond in accordance with the provisions of this section.

4.1.13.B **Waterways or Wetlands.** Work within or alteration of surface waters to construct a pond and construction of a pond within wetlands and any required buffers to surface waters or wetlands is prohibited unless the applicant demonstrates that he/she has obtained all required state permits.

4.1.13.C **General Standards.** Ponds must conform to the following unless otherwise approved by the Development Review Board as an element of proposed development subject to a development approval:

- (1) Ponds are prohibited within zoning district setbacks;
- (2) Ponds must not be enclosed with security fencing (potential hazards should be mitigated through appropriate siting, contouring and landscaping);
- (3) Ponds must have a grassed spillway system capable of handling stormwater overflow from the pond;
- (4) Stormwater overflow must not be discharged in a manner that would adversely impact downslope properties, public rights-of-way or surface waters; and
- (5) Property owners must manage and maintain ponds so as to not create a nuisance or hazard.

4.1.14 RIPARIAN BUFFERS

4.1.14.A **Purpose.** This section is intended to protect and enhance the overall quality, natural function and ecological health of Waterbury's surface water resources by mitigating the impact of development within riparian areas.

4.1.14.B **Applicability.** The provisions of this section apply to all land (as measured from the top of bank) within:

- (1) 20 feet of mapped surface waters in the Downtown, Mixed Use and Residential 10 districts; and
- (2) 50 feet of mapped surface waters in all other districts.

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4.1.14.C **Project Subject to State Permitting.** Development that obtains an Act 250 permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

4.1.14.D **General Standards.** Development is prohibited, and natural woody vegetation must be maintained or established, within riparian buffers except that:

- (1) Water-dependent structures or uses, public recreation facilities and public trails or walkways will be permitted to the extent allowed in the applicable zoning district.
- (2) Private water access, outdoor recreation, or outdoor seating will be allowed as follows:
 - (a) Such uses may occupy not more than 400 square feet within the buffer in the Downtown, Mixed Use and Residential 10 districts or 1,000 square feet within the buffer in all other districts.
 - (b) The access, recreation or seating area may be covered with mowed lawn, decks, patios, walkways or other impervious surfaces.
- (3) Exterior modification, redevelopment or replacement of pre-existing structures or developed areas within the buffer may be allowed as a conditional use in accordance with Subsections 4.1.14.E and 4.1.14.F.
- (4) Green stormwater infrastructure (GSI) practices may be allowed provided that the applicant demonstrates that such practices will not significantly compromise the functions of naturally vegetated riparian buffers.

4.1.14.E **Nonconforming Sites.** Pre-existing development within riparian buffers will be regulated in accordance with the following:

- (1) Any pre-existing development within the buffer may continue in its current condition, configuration and use.
- (2) A pre-existing building or portion of a building within the buffer may be used as allowed in the applicable zoning district provided that there will be no exterior modifications within the buffer.
- (3) The provisions of this section will not be interpreted to require the re-establishment of natural woody vegetation within riparian buffers on previously developed single- and two-family residential lots where that land is maintained as lawn or garden.

4.1.14.F **Conditional Use Criteria.** In addition to all other applicable criteria of these regulations, an applicant seeking conditional use approval for development within the riparian buffer must demonstrate that:

- (1) The proposed development cannot reasonably be accommodated on any portion of the lot outside the riparian buffer;
- (2) The proposed development will not have a greater (as compared to existing conditions) adverse impact on the natural functions of the surface water and land within the riparian buffer; and
- (3) If the site was previously developed, it will be brought into conformance with the standards of this section to the maximum extent feasible, which may include re-planting the buffer with suitable woody, riparian vegetation.

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4.1.15 STEEP SLOPES

4.1.15.A Where these regulations restrict development on steep slopes the following will apply:

- (1) The location, extent and measurement of steep slopes will be based on the best available mapped data maintained at the Waterbury planning office unless the applicant provides a topographic survey prepared and stamped by a Vermont-licensed surveyor locating and measuring steep slopes.
- (2) When regulating the slope of linear features, slope will be measured as an average over a 100-foot distance unless otherwise specified in these regulations.
- (3) When regulating land characterized by steep slopes, non-contiguous areas of steep slope that are less than 2,500 square feet in area will not be included.

4.1.16 STORMWATER MANAGEMENT

4.1.16.A **Purpose.** This section is intended to:

- (1) Minimize and/or control the quantity and quality of stormwater run-off.
- (2) Promote stormwater management methods that maintain pre-development hydrology and drainage patterns through project layout, site design, and best management practices that manage stormwater run-off as close to the source as possible.
- (3) Limit clearing and grading to the minimum needed for construction and minimize impacts to natural vegetation.
- (4) Prevent soil erosion and sedimentation resulting from non-point source pollution generated by development.
- (5) Protect surface waters and other natural resources from degradation as a result of development.
- (6) Minimize hazards from flooding and streambank erosion.
- (7) Prevent damage to, and reduce public expenditures associated with maintaining municipal infrastructure resulting from inadequate stormwater controls.

4.1.16.B **Applicability.** All proposed development that will increase the amount of impervious surface or otherwise modify any existing impervious surface on a lot must implement appropriate measures to reduce and manage stormwater to prevent run-off from adversely impacting nearby properties, public infrastructure or downslope water bodies.

4.1.16.C **Project Subject to State Permitting.** Development that obtains a state stormwater permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

4.1.16.D **Public Works Specifications.** In the case of a conflict between a provision of this section and a provision of any duly adopted Public Works Specifications, the Public Works Specifications will govern.

- 4.1.16.E **Design and Engineering Requirements.** Applicants must design and engineer proposed development in accordance with low-impact site design (LID) approaches and green stormwater infrastructure (GSI) best management practices to the maximum extent feasible given the site specific conditions including, but not limited to, soil characteristics and slope. Applicants proposing development that will increase the amount of impervious surface on a lot by:
- (1) 2,500 square feet to 10,000 square feet must demonstrate that appropriate stormwater best management practices will be implemented based on the *GSI Simplified Sizing Spreadsheet*.
 - (2) 10,000 square feet or more must submit and implement a professionally prepared stormwater management plan in accordance with the *Vermont Stormwater Management Manual*.
- 4.1.16.F **Best Management Practices.** Development that will increase the amount of impervious surface on a lot by 2,500 square feet or more must be designed so that stormwater run-off will be routed through one or more appropriate green stormwater management best management practices (BMPs) in accordance with the following:
- (1) BMPs must be sized and designed to capture 90% of the annual storm events, or the first inch of rainfall. (See the *Simplified GSI Sizing Tool* or the *Vermont Stormwater Management Manual* for methods and calculations.)
 - (2) Stormwater from on-site impervious roofs, streets, driveways, parking areas, sidewalks and walkways must be guided to vegetated areas, retention areas, and/or other pervious surfaces in order to promote on-site water retention and filtration.
 - (3) Applicants must demonstrate that the proposed width of all roads and driveways is the narrowest necessary to provide safe access and circulation in accordance with the provisions of these regulations and any duly adopted Public Works Specifications.
 - (4) Applicants must demonstrate that the proposed amount of on-site parking is the minimum necessary to meet the parking demand in accordance with the provisions of these regulations and any duly adopted Public Works specifications.
- 4.1.16.G **Post-Construction Soil Depth and Quality.** All disturbed areas on a site not covered by impervious surface, incorporated into a structural stormwater treatment practice, or engineered as structural fill or slope once development is complete, must conform to the following:
- (1) The duff layer and topsoil in areas to be disturbed during construction must be removed and stockpiled in a designated, controlled area that is not adjacent to surface waters, wetlands, floodplains, or river corridors. The duff layer and topsoil must be re-applied to the disturbed areas once construction activities are complete.
 - (2) At project completion, the soil in disturbed areas must be suitable in terms of soil chemistry and composition to support healthy plant growth and must:
 - (a) Include a topsoil layer with a minimum depth of 8 inches except where tree roots limit the depth of incorporation of amendments needed to meet the criteria.
 - (b) Have had the subsoils below the topsoil layer scarified at least 4 inches with some incorporation of the upper material to avoid stratified layers, where feasible.

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- (3) If the stockpiled duff layer and topsoil is not sufficient to amend the graded areas, the applicant must import and establish a minimum 8-inch topsoil layer with subsoils below scarified to at least 4 inches to allow for some incorporation of the topsoil layer.

4.1.17 SWIMMING POOLS

4.1.17.A A property owner may apply for a zoning permit to install a swimming pool (if not exempted under Section 1.2.6) on his/her property to be used for non-commercial, private recreational purposes as an accessory use.

4.1.17.B All outdoor swimming pools must be designed in accordance with the following:

- (1) A swimming pool must be completely enclosed to prevent unauthorized access by a wall, fence or other structure not less than 4 feet in height with a self-closing and self-latching gate.
- (2) An above-ground pool will be considered completely enclosed if its exterior walls are smooth and at least 4 feet in height above grade around its entire perimeter, and if either:
 - (a) The ladder access will be enclosed by a wall, fence, or other structure not less than 4 feet in height with a self-closing and self-latching gate; or
 - (b) Entrance to the pool will be possible only through the use of portable steps or stairs that are removed when the pool is not in use.
- (3) A swimming pool must not be located between the principal building and the road unless the applicant can demonstrate that there is no other feasible location on the lot.

4.1.18 UTILITY FACILITIES

4.1.18.A **Applicability.** The standards of this section apply to utility facilities not exempted in Section 1.2.6.

4.1.18.B **District Standards.** Minimum lot size and frontage requirements will not apply to lots housing utility facilities.

4.1.18.C **Site Security.** Utility facilities must be designed and maintained to prevent unauthorized access and protect public safety.

4.1.18.D **Screening Requirements.** A site housing a utility facility must meet the screening requirements of Subsection 4.3.7.E for utilities and service areas.

4.1.19 WATER SUPPLY AND WASTEWATER DISPOSAL

4.1.19.A All proposed development requiring a zoning permit under these regulations must conform to applicable town ordinances and specifications and state regulations regarding the provision of potable water and disposal of wastewater.

4.2 Specific Use Standards

4.2.1 MULTI-FAMILY DWELLINGS

4.2.1.A **Applicability.** The provisions of this section apply to:

- (1) New buildings that will contain 5 or more dwelling units;
- (2) Multi-building developments that will contain 10 or more dwelling units; and
- (3) Existing buildings undergoing a major renovation that will increase the number of dwelling units and result in 5 or more units in the building.

4.2.1.B **Open Space.** Multi-unit residential buildings must provide residents with useable outdoor space as follows:

- (1) There must be at least 400 square feet of common open space per dwelling unit that meets the standards below. The Development Review Board may reduce or waive this requirement upon the applicant demonstrating that the building is located within a ½-mile walk of a public recreation area that will be accessible to residents via sidewalks or multi-use paths. Common open space must:
 - (a) Be located in one or more areas conveniently accessible to building residents,
 - (b) Be configured so that the space is not less than 30 feet in any dimension;
 - (c) Be designed with seating areas and other passive recreation facilities to be shared by all residents;
 - (d) Be landscaped with trees, shrubs, groundcover and/or ornamental plants; and
 - (e) Include a children's play area if 30% or more of the units in the building have three or more bedrooms.
- (2) At least 50% of the units must include a private or semi-private outdoor living space (ex. patio, courtyard, porch, balcony) to be accessed from the dwelling unit for the exclusive use of unit residents that is at least 60 square feet in area and not less than 6 feet in any dimension.

4.2.1.C **Bulk Storage.** Each dwelling unit must include a secured, enclosed bulk storage area at least 60 square feet in area and not less than 6 feet in any dimension for the exclusive use of unit residents as follows:

- (1) The storage area may be attached to or separate from the dwelling unit;
- (2) The storage area may be located within the building or within an accessory building(s); and
- (3) If the storage area will be located within a private garage, it must be in addition to the area necessary to accommodate any required parking.

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- 4.2.1.D **Structured Parking.** New multi-unit buildings or multi-building developments that will include 20 or more units must provide at least one structured parking space (ex. under-building, garage, etc.) for each dwelling unit that meets the requirements below. The Development Review Board may reduce or waive this requirement upon the applicant demonstrating that: (i) some or all of the parking requirement will be provided off-site in accordance with Subsection 4.3.4.D; (ii) minimum parking requirements will be reduced or eliminated in accordance with Paragraph 4.3.4.C(5); and/or (iii) the units meet the definition of affordable housing in Paragraph 5.1.3.A(3).
- (1) Under-building parking must be screened so that it will not be visible from the sidewalk or road with walls and landscaping that are compatible with the architectural character and exterior materials of the building and that enhance the streetscape.
 - (2) Under-building parking must be accessed from the side or rear of the building. The Development Review Board may waive this requirement upon the applicant demonstrating that access from the side or rear is not feasible due to site specific physical conditions (ex. the natural grade of the lot).
 - (3) Garages that face the street must be set back at least 4 feet behind the building frontline.
 - (4) Garages that face the street and that are set back less than 8 feet behind the building frontline must use single-wide garage doors that are not more than 10 feet wide.
- 4.2.1.E **Bicycle Parking.** Multi-unit residential buildings must provide residents with at least one, conveniently accessible, secure and covered bicycle parking or storage space per unit. Applicants may demonstrate that this requirement will be met by providing bulk storage or structured parking that is adequately sized and configured to accommodate a bicycle.
- 4.2.1.F **Pedestrian Access.** Multi-unit residential buildings must be designed with pedestrian access from:
- (1) The public sidewalk or street to any street-facing ground-level residential entrances;
 - (2) Parking areas to residential entrances; and
 - (3) Residential entrances to service areas (ex. trash or recycling areas) and common open space areas.
- 4.2.1.G **Mixed-Use Buildings.** Multi-unit, mixed-use buildings must be designed so that the:
- (1) Non-residential space will not be located above residential units;
 - (2) Walls and/or floors that separate residential and non-residential portions of the building will be sound-proofed;
 - (3) Entrance(s) to the dwelling units will be separated from the public and service entrance(s) to the non-residential portions of the building;
 - (4) Impact of service and waste collection areas (noise, light, odors, etc.) on building residents will be minimized; and
 - (5) Common open space, as required above, will be separated and screened from areas of the property accessible to the general public and from service areas.

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4.2.2 ACCESSORY DWELLINGS

4.2.2.A An accessory dwelling unit (ADU) must:

- (1) Be located within or appurtenant to an owner-occupied single-family dwelling (it may be located in an accessory structure that is separate from the primary dwelling);
- (2) Be clearly subordinate to the primary dwelling;
- (3) Be located on the same lot as and share a driveway with the primary dwelling;
- (4) Have provisions for independent living, including sleeping, food preparation and sanitation;
- (5) Not exceed 1,400 square feet or 30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;
- (6) Not have more than 2 bedrooms;
- (7) Meet the minimum parking requirements for residential uses of Section 4.3.4;
- (8) Meet the applicable dimensional standards of the zoning district; and
- (9) Meet the water supply and wastewater disposal standards of Section 4.1.19.

4.2.2.B A lot must not have more than one ADU.

4.2.2.C The landowner must reside on the property, but may occupy either the primary dwelling or the ADU.

4.2.2.D An ADU will be considered an accessory use of residential property and will not require site plan approval.

4.2.2.E An ADU will not be included in the calculation of residential density.

4.2.3 HOME OCCUPATION

4.2.3.A A home occupation must:

- (1) Be customary in residential areas;
- (2) Be subordinate to the residential use of the property;
- (3) Not have an adverse effect on the character of the area;
- (4) Not generate regular traffic in excess of what is typical of other uses in the area;
- (5) Meet the performance standards of Section 4.3.5;
- (6) Operate only between the hours of 7 a.m. to 7 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday;
- (7) Not be primarily retail in nature, except that retail sales of goods manufactured on the premises and ancillary sales of products directly related to the provision of a personal service (e.g. sales of hair care products by a hair stylist) will be allowed;
- (8) Occupy less than 35% of the habitable floor area of the dwelling and/or not more than a total of 900 square feet in one or more accessory buildings;
- (9) Not employ more than 1 person who does not live in the associated dwelling and who works on-site; and

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- (10) Not have any outdoor storage or use areas, product display or parking of heavy vehicles or equipment outside an enclosed structure.

4.2.3.B A home occupation may have a sign in accordance with Section 4.3.6.

4.2.3.C A home occupation will be considered an accessory use of residential property and will not require site plan approval.

4.2.4 HOME BUSINESS

4.2.4.A A home business must:

- (1) Not have an adverse effect on the character of the area;
- (2) Meet the performance standards of Section 4.3.5;
- (3) Operate only between the hours of 7 a.m. to 7 p.m. unless otherwise established as a condition of approval;
- (4) Not be primarily retail in nature, except that retail sales of goods manufactured on the premises and ancillary sales of products directly related to the provision of a personal service (e.g. sales of hair care products by a hair stylist) will be allowed;
- (5) Not occupy more than 50% of the habitable floor area of the dwelling, but may occupy any amount of space in one or more accessory buildings;
- (6) Not employ more than 4 people who do not live in the associated dwelling and who work on-site; and
- (7) Design and maintain any outdoor storage or use areas in accordance with all applicable provisions of these regulations and any conditions of approval.

4.2.4.B A home business may have signage as allowed in Section 4.3.6 for the applicable zoning district.

4.2.4.C A home business will require site plan approval.

4.2.5 FAMILY CHILDCARE HOME

4.2.5.A A family childcare home must:

- (1) Be operated by a resident of the dwelling;
- (2) Be licensed by the state; and
- (3) Not care for more than 6 children on a full-time basis (more than 4 hours per day) and 4 children on a part-time basis (not more than 4 hours per day), not including any children who live in the home.

4.2.5.B A family childcare home may have a sign in accordance with Section 4.3.6.

4.2.5.C A family childcare home will be considered an accessory use of residential property and will not require site plan approval.

4.2.6 RESIDENTIAL CARE OR GROUP HOME

4.2.6.A A residential care or group home must:

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- (1) Be licensed by the state;
- (2) Not be occupied by more than 8 people with a disability; and
- (3) Not be located within 1,000 feet of another residential care or group home (as measured between the two closest points along the property lines).

4.2.6.B A residential care or group home will be considered a by-right use of residential property and will require permits to the same extent as a single-family dwelling under these regulations.

4.2.7 BED AND BREAKFAST

4.2.7.A A bed and breakfast must:

- (1) Be located within a single-family dwelling and/or an accessory building to a single-family dwelling;
- (2) Be operated by a resident of the dwelling;
- (3) Be licensed by the state;
- (4) Not have more than 4 bedrooms that are used to house guests;
- (5) Not house any guest for a continuous period of more than 30 days; and
- (6) Not offer meals to the general public.

4.2.7.B A bed and breakfast must provide guest parking in accordance with Section 4.3.4, including meeting the minimum parking requirements for lodging uses. Guest parking must not be located within the driveway or between the front lot line and the dwelling.

4.2.7.C A bed and breakfast may have a sign that meets all applicable requirements of Section 4.3.6.

4.2.7.D A bed and breakfast will be considered an accessory use of residential property and will not require site plan approval.

4.2.8 INN

4.2.8.A An inn must:

- (1) Be located within a single-family dwelling and/or an accessory building to a single-family dwelling;
- (2) Be operated by a resident of the dwelling;
- (3) Be licensed by the state;
- (4) Not have more than 12 bedrooms that are used to house guests; and
- (5) Not house any guest for a continuous period of more than 30 days.

4.2.8.B An inn may offer meals or other services (spa, fitness center, meeting rooms, etc.) to the general public as a conditional use.

4.2.8.C An inn must provide guest parking in accordance with Section 4.3.4, including meeting the minimum parking requirements for lodging uses. Guest parking must not be located within the driveway or between the front lot line and the dwelling.

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4.2.8.D An inn may have signage as allowed in Section 4.3.6 for the applicable zoning district.

4.2.8.E An inn will require site plan approval.

4.2.9 ROOMING AND BOARDING HOUSE

4.2.9.A A rooming and board house must:

- (1) Be located within a single-family dwelling;
- (2) Be operated by a resident of the dwelling;
- (3) Not have more than 12 bedrooms that are used to house tenants;
- (4) Provide all tenants with a private, secured bedroom for their exclusive use;
- (5) Not house more than two unrelated adults per bedroom;
- (6) Rent rooms for a period of not less than one month; and
- (7) Meet the minimum parking requirements for residential uses of Section 4.3.4.

4.2.9.B A rooming and boarding house may have a sign that meets all applicable requirements of Section 4.3.6.

4.2.9.C A rooming and boarding house will require site plan approval.

4.2.9.D A rooming and boarding house will be considered a multi-family dwelling if the rental rooms have provisions for independent living, including sleeping, food preparation and sanitation in accordance with Section 4.1.8.

4.2.10 SHORT-TERM RENTAL

4.2.10.A A short-term rental must:

- (1) Be of a dwelling or portion of a dwelling with an owner or a tenant with a lease agreement for a period of not less than 12 months;
- (2) Have the owner or tenant living in the dwelling for not less than 180 days within any calendar year;
- (3) Not house any guest for a continuous period of more than 30 days; and
- (4) Be limited to a maximum number of guests that does not exceed twice the number of bedrooms in the dwelling.

4.2.10.B A short-term rental will be considered an accessory use of residential property and will not require site plan approval.

4.2.10.C Short-term rentals that do not meet the standards of this section will be considered a hotel or motel use under these regulations.

4.2.11 HOTEL OR MOTEL

4.2.11.A A hotel or motel must:

- (1) Be licensed by the state;

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- (2) Be limited to a maximum number of guestrooms that does not exceed 1 per 400 square feet of gross floor area;
- (3) Not house any guest/tenant for a continuous period of more than 30 days except in an extended stay room that meets the standards below; and
- (4) Provide at least 50 square feet of common open space for each standard guestroom and 100 square feet for each extended stay room that will be:
 - (a) Located in one or more areas conveniently accessible to guests/tenants with no area being less than 30 feet in any dimension;
 - (b) Designed with seating areas and other passive recreation facilities to be available to all guests/tenants; and
 - (c) Landscaped with trees, shrubs, groundcover and/or ornamental plants.

4.2.11.B Extended stay rooms must:

- (1) Provide guests/tenants with a private, secured space for their exclusive use;
- (2) Not house more than two unrelated adults; and
- (3) Meet the minimum requirements for independent living, including sleeping, food preparation and sanitation of Section 4.1.8.

4.2.11.C A hotel or motel may include accessory uses such as restaurants, event venues, meeting spaces, fitness centers or spas that are open to the general public.

4.2.12 SALES LOT

4.2.12.A The provisions of this section apply to:

- (1) New sales lots;
- (2) Existing sales lots that will be expanded, resulting in 2,000 square feet or more of additional impervious surface; and
- (3) Existing sales lots that will be modified, resulting in the redesign or relocation of the display area (this will not be interpreted to include resurfacing of paved areas).

4.2.12.B A sales lot must:

- (1) Only display or store merchandise in designated display or storage areas as shown on the approved site plan;
- (2) Not locate display or storage areas within minimum setbacks for the applicable zoning district;
- (3) Not display or store merchandise within travel ways (driveways, parking aisles, sidewalks, etc.), fire lanes, loading areas, service areas, or required customer/employee parking spaces;
- (4) Screen display or storage areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Subsection 4.3.7.E;
- (5) Display all merchandise in a static position at ground level (no raised, moving, revolving platforms, pedestals, ramps, mounds, etc.);

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- (6) Provide a buffer at least 16 feet deep between the edge of the sidewalk (or front property line, if no sidewalk) and the display area landscaped with not less than 1.0 equivalent planting unit for every 20 feet of display area frontage (see Section 4.3.1) that conforms to the planting specifications in Figure 4-02;
- (7) Not locate any merchandise or signs within the required buffer except as specifically allowed below:
 - (a) One permanent sign that meets the applicable standards of Section 4.3.6 may be located within the buffer; and
 - (b) One display area not more than 200 square feet in area that meets the minimum front setback requirement for the applicable zoning district may be located within the buffer and may be hard surfaced.

4.2.12.C Any area used for the display or storage of merchandise must be paved. The Development Review Board may waive this requirement upon the applicant demonstrating that a non-paved surface will be suitable to accommodate the type and amount of goods, type, amount and frequency of traffic, and/or time of the year or length of time that the area will be used without causing erosion or other damage. This will include allowing for surfaces designed to function as a green stormwater practices (see Section 4.1.16).

4.2.12.D Any area used for the display or storage of merchandise will be considered an impervious surface and included in the calculation of lot coverage. The Development Review Board may waive this requirement upon the applicant demonstrating that a display or storage area has been specifically designed and will be maintained to function as a pervious surface in accordance with green stormwater practices (see Section 4.1.16).

4.2.12.E Any area used for the display or storage of vehicles being offered for sale will not be considered a parking lot and will not be subject to the provisions of Section 4.3.4.

4.2.12.F See special lighting standards for sales lots in Paragraph 4.3.2.D(2).

4.2.13 REPAIR SERVICE

4.2.13.A A repair service must:

- (1) Carry out all repair or service activities within an enclosed building;
- (2) Carry out any body work, painting or other activities that will produce dust, fumes or odors within a building with a properly functioning ventilation system that meets state and federal requirements; and
- (3) Locate any washing, lubrication, hydraulic or similar equipment within a building with a properly functioning system for collecting and preventing release of oils or other hazardous materials that meets state and federal requirements.

4.2.13.B Vehicles or other goods, including those awaiting repair or pick-up, must not be parked or stored within minimum required setbacks for the applicable zoning district.

4.2.13.C All outdoor storage associated with the repair service must meet the standards of Section 4.3.3.

4.2.14 FUELING STATION

4.2.14.A The provisions of this section apply to:

- (1) New fueling stations;
- (2) Existing fueling stations being modified, resulting in the replacement or relocation of the fuel storage tanks and/or a relocation of the fuel pumps;
- (3) Existing fueling stations being modified, resulting in a new principal building or an addition to an existing principal building of 1,000 square feet or more; and
- (4) Existing fueling stations being expanded, resulting in an increase in the number of fuel pumps.

4.2.14.B Fueling stations must:

- (1) Be located at least 500 feet from any other fueling station as measured between the property lines at their closest point (this will apply only to new fueling stations);
- (2) Be located on a lot that has at least 120 feet of frontage and is at least 20,000 square feet in area (this will apply only to new fueling stations);
- (3) Locate all fuel pumps and islands at least 35 feet from side and rear lot lines; and
- (4) Not locate fuel pumps and islands between the principal building and the front lot line (this will apply to new fueling stations and to the addition of pumps to existing stations, and nonconforming pumps must not be relocated in a manner that would result in their being located closer to the front lot line);
- (5) Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district and within 20 feet of the property line with a residential lot; and
- (6) Screen fueling areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Subsection 4.3.7.E.

4.2.14.C New or replacement fuel station canopies must:

- (1) Not extend over minimum required setbacks for the applicable zoning district or public rights-of-way;
- (2) Not exceed 18 feet in height if the roof will be flat or 24 feet in height if the roof will be pitched;
- (3) Not incorporate franchise designs or corporate identification elements;
- (4) Be architecturally integrated with the principal building through the use of the same or compatible materials, colors, roof pitch and design features;
- (5) Have illumination only on the underside (illuminated fascia are not allowed) with light fixtures that are recessed into the underside of the canopy so as not to protrude below the bottom of the canopy fascia or below the canopy surface by more than 2 inches in accordance with Paragraph 4.3.2.D(3).

4.2.14.D Electric car charging stations located within a parking lot or structure will not be considered a fueling station and will not be subject to the provisions of this section.

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4.2.15 CARWASH

4.2.15.A The provisions of this section apply to any carwash established as a permanent use. They do not apply to any temporary car-washing events or the washing of vehicles on the vehicle owner's property.

4.2.15.B A carwash must:

- (1) Carry out all washing and mechanized drying activities within an enclosed building except that self-service bays may be open on two sides;
- (2) Not operate between the hours of 9 p.m. and 7 a.m.;
- (3) Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district or within 20 feet of the property line with a residential lot;
- (4) Screen vehicular use areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Subsection 4.3.7.E;
- (5) Contain all wastewater on-site and prevent it from running off the property or into municipal storm drains; and
- (6) Have a properly functioning wastewater capture and recycling system.

4.2.16 LAWN, GARDEN AND FARM SUPPLY SALES & LUMBERYARD AND BUILDING SUPPLY SALES

4.2.16.A Lawn, garden and farm supply sales and lumberyard and building supply sales must:

- (1) Only display or store merchandise outside an enclosed structure in designated display or storage areas as shown on the approved site plan;
- (2) Not locate outdoor display or storage areas within minimum setbacks for the applicable zoning district;
- (3) Not display or store merchandise within travel ways (driveways, parking aisles, sidewalks, etc.), fire lanes, loading areas, service areas, or required customer/employee parking spaces;
- (4) Screen display or storage areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Subsection 4.3.7.E; and
- (5) Provide a buffer at least 16 feet deep between the edge of the sidewalk (or front property line, if no sidewalk) and the display area landscaped with not less than 1.0 equivalent planting unit for every 20 feet of display area frontage (see Section 4.3.1) that conforms to the planting specifications in Figure 4-02.

4.2.16.B Any area used for the display or storage of merchandise will be considered an impervious surface and included in the calculation of lot coverage. The Development Review Board may waive this requirement upon the applicant demonstrating that a display or storage area has been specifically designed and will be maintained to function as a pervious surface in accordance with green stormwater practices (see Section 4.1.16).

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4.2.17 OPEN MARKET OR AUCTION HOUSE

4.2.17.A The provisions of this section do not apply to temporary sales or auctions of goods on any property that occur for not more than 4 contiguous days and a total of 28 days in any calendar year in accordance with all other applicable provisions of these regulations.

4.2.17.B Unless otherwise approved by the Development Review Board, an open market or auction house must:

- (1) Indicate all structures (permanent and temporary) and open areas intended to be used for the display or storage of goods being offered for sale on the approved site plan;
- (2) Not store goods being offered for sale outside an enclosed structure when the business is closed to patrons;
- (3) Not use an amplified sound system that will be audible off the premises; and
- (4) Be limited to operating between the hours of 8 a.m. and 9 p.m.

4.2.17.C Open markets or auction houses that will operate on a seasonal basis must remove all goods stored outside an enclosed building, temporary structures, and signs (message component only, support structure may remain in place) during the off-season.

4.2.17.D The Development Review Board may modify the parking requirements of Section 4.3.4 for an open market or auction house that will be operated on a seasonal or limited basis.

4.2.17.E If an applicant requests a modification from the requirements of this section, the Development Review Board must find that the use as proposed will not result in adverse off-site impacts.

4.2.18 RESTAURANT

4.2.18.A A restaurant must:

- (1) Be licensed by the state;
- (2) Not have outdoor seating or other outdoor areas for patron use except as specifically shown on an approved site plan;
- (3) Not have amplified music playing from outside an enclosed building or from within an open-air structure unless otherwise approved by the Development Review Board; and
- (4) Provide sound-proofing for any wall, ceiling or floor that is shared with a residential use if located within a mixed-use building.

4.2.19 MOBILE FOOD SERVICE

4.2.19.A Mobile food service must:

- (1) Be licensed by the state;
- (2) Not be located within any minimum required setback, buffer or right-of-way unless the Waterbury Selectboard approves a location within a public right-of-way;
- (3) Be located entirely on private property unless the Waterbury Selectboard approves a location on public property;

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- (4) Not interfere with pedestrian or vehicular access or circulation, or with sight distance at any intersection; and
- (5) Provide appropriate receptacles for trash, recyclables and food waste.

4.2.19.B Mobile food service may be located within an off-street parking area provided that it will not reduce the number of parking spaces below the minimum amount needed to accommodate the use(s) intended to be served by the parking.

4.2.19.C There will be no minimum parking requirements for mobile food service. Any parking provided must meet the standards of Section 4.3.4.

4.2.19.D Signs must meet the standards of Section 4.3.6 and will be limited to:

- (1) One or more signs mounted on the vending unit not to exceed a total sign area of 20 square feet, exclusive of any menu sign;
- (2) Menu signs in accordance with Paragraph **Error! Reference source not found.**;
- (3) Awning signs in accordance with Paragraph 4.3.6.H(2); and
- (4) Sandwich board signs in accordance with Paragraph **Error! Reference source not found.**.

4.2.20 BAR, NIGHTCLUB OR EVENT FACILITY

4.2.20.A A bar, nightclub or event facility must:

- (1) Be licensed by the state;
- (2) Not have outdoor seating or other outdoor areas for patron or guest use except as specifically shown on an approved site plan;
- (3) Not have amplified sound system playing from outside an enclosed building or from within an open-air structure unless otherwise approved by the Development Review Board; and
- (4) Provide sound-proofing for any wall, ceiling or floor that is shared with a residential use if within a mixed-use building.

4.2.21 SELF-STORAGE SERVICES

4.2.21.A Self-storage services must:

- (1) Not have outdoor or unenclosed storage unless specifically approved by the Development Review Board in accordance with the standards of Section 4.3.3;
- (2) Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil;
- (3) Not have any stored goods displayed for sale except in accordance with Subsection 4.2.21.C;
- (4) Not allow a storage unit renter to engage in retail sales, vehicle maintenance or repair, use of tools or equipment, or any activity other than storage of property on the premises; and

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- (5) Install screening along any property line abutting a residential lot with a fence in accordance with Subsection 4.3.7.E.

4.2.21.B Mini-storage buildings must:

- (1) Have sloped roofs with a pitch of not less than 4:12;
- (2) Not cover more than 50% of the total lot area;
- (3) Be oriented with their short side facing the road unless the Development Review Board waives this requirement upon the applicant demonstrating that it is not feasible due to site specific conditions (grade, lot depth, etc.);
- (4) Be compatible in design, materials and colors with one another when there will be multiple buildings on a site; and
- (5) Use dark, muted and/or neutral colors that would help blend the buildings into the surrounding landscape and must not use bright, intense and/or vibrant colors or patterns that would call attention to the buildings.

4.2.21.C Temporary sales or auctions of goods stored on the premises will be allowed as an accessory use for not more than 4 contiguous days and a total of 28 days in any calendar year.

4.2.22 TANK FARM OR FUEL STORAGE AND DISTRIBUTION SERVICES

4.2.22.A Tank farm or fuel storage and distribution services must:

- (1) Be registered with the state and in compliance with all applicable state and federal regulations;
- (2) Not be located within 1,000 feet of a school, daycare facility, skilled nursing facility, hospital, park or other place of public assembly (measured at the closest point between the property lines);
- (3) Not be located within 500 feet of an existing residence (measured at the closest point between the property lines);
- (4) Locate all aboveground tanks on a hard, level surface;
- (5) Provide a containment system for any aboveground tank that is:
 - (a) Capable of holding at least 125% of the volume of the tank, and
 - (b) Designed to appropriately treat and release any water that accumulates within the containment area;
- (6) Be designed to prevent contact between vehicles and any aboveground tank (i.e., provision of fencing or bollards); and
- (7) Not display any signs or franchise or corporate identification elements on an aboveground tank except for identification and warning signs required by state or federal regulations.

4.2.22.B Pre-existing tank farm or fuel storage and distribution services must not be expanded or redeveloped to increase the total amount of storage capacity on the site or locate storage tanks closer to any lot line unless all the standards of Subsection 4.2.22.A will be met.

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4.2.22.C The provisions of this section do not apply to storage of fuels or other materials for on-site use.

4.2.23 COMMUNICATION ANTENNAS AND TOWERS

4.2.23.A **Purpose.** The purpose of this section is to:

- (1) Regulate the placement, design, construction, removal, and modifications of wireless communication facilities so as to promote Waterbury's economic viability and to protect its historic, cultural, natural, and aesthetic resources;
- (2) Minimize the impacts of communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- (3) Accommodate the growing need and demand for communications facilities;
- (4) Encourage the location and collocation of communications equipment on existing structures in order to minimize visual, aesthetic, public safety and ecological impacts and reduce the need for additional towers;
- (5) Provide for the replacement and/or removal of nonconforming or discontinued antennas and towers; and
- (6) Respond to the Telecommunications Act of 1996 by not unreasonably discriminating among providers of functionally equivalent personal wireless services and not effectively prohibiting provision of personal wireless service in Waterbury.

4.2.23.B **Applicability.** Except as specifically exempted in Section 1.2.6, the standards of this section apply to the installation, construction or modification of the following communications facilities:

- (1) Existing and proposed antennas and towers;
- (2) Replacement antennas and towers;
- (3) Broadcast antennas and towers;
- (4) Collocated and combined antennas on existing towers;
- (5) Roof-mounted antennas and supporting structures;
- (6) Surface-mounted antennas;
- (7) Antennas mounted on utility poles, including utility poles located within public rights-of-way;
- (8) Stealth wireless communications facilities; and
- (9) Amateur radio antennas and towers with an overall height greater than 50 feet.

4.2.23.C **De Minimis Impact.** The Zoning Administrator may approve and issue a zoning permit for an application for a communication facility if he/she determines that it conforms to all applicable provisions of these regulations and imposes no or de minimis impact on any criteria established in these regulations. The Zoning Administrator will only consider an application to have a de minimis impact if it meets all of the following:

- (1) The height and width of the facility or tower, excluding equipment, antennas or ancillary improvements, will not increase;

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- (2) The total amount of impervious surface, including access roads, associated with the facility or tower will not increase by more than 300 square feet;
- (3) Any addition, modification or replacement of an antenna or other equipment will not extend vertically more than 10 feet above and horizontally more than 10 feet out from the facility or tower; and
- (4) Any additional or replacement equipment, antennas or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas or ancillary improvements on the facility or support structure by more the 75 square feet.

4.2.23.D Application Requirements. In addition to all other requirements, applicants must submit the following to demonstrate compliance with the provisions of this section:

- (1) A signed statement from the facility's owner or owner's agent stating that the radio frequency emissions will comply with Federal Communications Commission (FCC) standards;
- (2) Proof that the proposed facility has been designed to withstand sustained winds of 110 mph and a 15-second wind gust of 130 mph;
- (3) Proof that any proposed tower will be designed so that, in the event of a structural failure, it will collapse within the boundaries of the lot on which it is located;
- (4) An FCC license, and construction development approval if applicable, to transmit radio signals in Waterbury;
- (5) The name, address and telephone contact information for the owner of any proposed or existing tower, and a statement that such information will be updated if there is a change;
- (6) A structural analysis of the proposed facility prepared and stamped by a professional engineer, indicating the proposed and future loading capacity of any tower;
- (7) Proof of compliance with Federal Aviation Administration regulations of objects affecting navigable airspace;
- (8) A description of the coverage area planned for the cell to be served by the proposed facility;
- (9) A description of the search area used to locate the proposed facility;
- (10) A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility; and
- (11) Antenna heights and power levels of the proposed facility and all other facilities on the subject property.

4.2.23.E Siting Priorities. The Development Review Board will only approve a new tower upon the applicant demonstrating that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility. In order to justify the construction of new tower, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that the alternatives below (listed in order of preference) do not constitute feasible alternatives:

- (1) Collocated or combined antennas;

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- (2) Surface-mounted antennas;
- (3) Roof-mounted antenna supporting facility; and
- (4) Stealth wireless communications facility.

4.2.23.F Antenna Types. Antennas must be designed and configured in a manner that minimizes adverse visual impacts as follows:

- (1) Antennas must be one of the types below (listed in order of preference):
 - (a) Flush-mounted;
 - (b) Panel;
 - (c) Whip; or
 - (d) Dish.
- (2) In order to justify the use of an antenna type lower in the ranked listed above, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that higher-ranked alternatives cannot be used.

4.2.23.G Surface-Mounted Antennas. Surface-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:

- (1) Maintain a color that is the same as the surface to which they are attached unless the Development Review Board finds that another color will be more contextually compatible;
- (2) Be placed at least 15 feet above the ground; and
- (3) Be placed so that no portion of the antenna is less than 3 feet below the eaves or roof deck, if proposed to be mounted on a building wall.

4.2.23.H Roof-Mounted Antenna Supporting Facilities. Roof-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:

- (1) Be placed only on commercial, industrial, institutional or multi-family buildings that are at least 30 feet in height;
- (2) Be placed as near to the center of the roof as possible;
- (3) Not extend above the roof line of the building to which they are attached by more than 20 feet;
- (4) Have a monopole-type construction;
- (5) Maintain a galvanized gray finish unless the Development Review Board finds that another color will be more contextually compatible;
- (6) Be screened by a parapet or other structure in order to minimize their visual impact as viewed from the sidewalk or road; and
- (7) Not have signs.

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4.2.23.I Stealth Wireless Communications Facilities. A stealth facility must:

- (1) Not have antennas or ancillary equipment that is readily identifiable from public vantage points as wireless communications equipment; and
- (2) Be designed so that they are reasonably consistent with the surrounding built or natural environment.

4.2.23.J Towers. Communication towers must:

- (1) Not exceed 20 feet above the average height of the tree line within 100 feet of the base of the tower unless the applicant demonstrates that additional height is necessary to provide adequate coverage or allow for collocation;
- (2) Be set back a distance at least equal to their overall height from all lot lines (this does not include any guy-wire anchors) except that:
 - (a) A nonconforming replacement structure must not be placed any closer to a lot line than the original structure and the height must not be increased if the minimum setback cannot be met;
- (3) Have a monopole-type construction except that:
 - (a) Broadcast structures taller than 200 feet, amateur radio antennas and AM broadcast antennas may have a lattice-type construction;
- (4) Maintain a galvanized gray finish or other contextually-compatible color as determined by the Development Review Board (this includes ancillary appurtenances and transmission lines), except if otherwise required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC);
- (5) Be screened and fenced in accordance with Subsection 4.3.7.E;
- (6) Not have lights, signals or other illumination unless the applicant demonstrates that lighting is required by the FAA or FCC; and
- (7) Not have signs except for hazard notification signs as required by state or federal regulations.

4.2.23.K Special Standards for the Hillside and Ridgeline Overlay District. Towers proposed to locate in the Hillside and Ridgeline Overlay District must be sited off ridge lines and where their visual impact is least detrimental to scenic areas to the maximum extent feasible. In determining whether the proposed tower will have an undue adverse visual impact, the Development Review Board must consider the following in addition to all other applicable standards of these regulations:

- (1) The period of time during which the proposed tower will be viewed by the traveling public on a public highway, public trail, or public body of water;
- (2) The frequency of the view of the proposed tower by the traveling public;
- (3) The degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
- (4) Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;

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- (5) The distance of the tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
- (6) The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point; and
- (7) The sensitivity or unique value of the particular view affected by the proposed tower.

4.2.24 CONTRACTOR'S YARD OR UNENCLOSED STORAGE

4.2.24.A Contractor's yard or unenclosed storage must:

- (1) Not locate storage areas within minimum setbacks for the applicable zoning district;
- (2) Install screening along the front lot line if the outdoor storage would otherwise be visible from the road in accordance with Section 4.3.7;
- (3) Install screening along the side and/or rear property lines if outdoor storage would otherwise be visible from abutting properties with a fence in accordance with Section 4.3.7;
- (4) Control erosion and sediment transport from any materials stored outdoors in accordance with Section 4.1.10;
- (5) Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil (such a use will be considered waste storage); and
- (6) Not allow equipment or vehicle maintenance or repair activities to occur outside an enclosed building and in accordance with the provisions of Section 4.2.13.

4.2.25 REHABILITATION SERVICES OR RESIDENTIAL TREATMENT FACILITY

4.2.25.A A residential treatment facility must:

- (1) Operate under state licensing;
- (2) Be limited to a maximum number of residents that does not exceed 1 per 400 square feet of gross floor area in the facility;
- (3) Not house more than two unrelated residents per room;
- (4) Provide a minimum of 200 square feet of common open space per resident that is designed with seating areas and other passive recreation facilities to be shared by all residents; and
- (5) Not be located within 1,000 feet of another residential treatment facility or group home (measured as the closest distance between the property lines).

4.2.26 EXTRACTION AND QUARRYING

4.2.26.A Extraction and quarrying must:

- (1) Be located on a parcel not less than 5 acres in size;
- (2) Maintain or establish a naturally vegetated woody buffer at least 100 feet deep along all property boundaries, public rights-of-way, surface waters and wetlands;

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- (3) Retain and stockpile any topsoil removed for reapplication to disturbed areas during reclamation;
- (4) Submit and implement professionally prepared erosion control and stormwater management plans;
- (5) Not cause the permanent lowering of the water table on surrounding properties;
- (6) Limit operational activities (blasting, excavation, processing, hauling, etc.) to between the hours of 8 a.m. and 6 p.m. (or dusk if earlier);
- (7) Install warning signs and fencing as necessary to protect public safety;
- (8) Meet the performance standards of Section 4.3.5;
- (9) Reclaim the site progressively as the extraction or quarrying activity advances on the site as follows:
 - (a) Remove all equipment, stockpiles, debris, signs and other materials or improvements associated with the extraction or quarry use as part of the final reclamation effort;
 - (b) Design any water body to be created on the site as a result of the extraction or quarrying use to have a natural form with variation in shoreline and depth;
 - (c) Maintain or establish a final slope that does not exceed a grade of 3:1 (horizontal to vertical) over a distance of 30 feet on all disturbed areas (will not include areas of exposed ledge);
 - (d) Evenly spread topsoil capable of sustaining vegetation on all disturbed areas;
 - (e) Stabilize and seed disturbed areas at the earliest possible time following completion of extraction or quarrying operations in an area;
 - (f) Replant disturbed areas with groundcover and not less than 4.0 EPU's per acre disturbed (see Figure 4-02); and
 - (g) Keep erosion control measures in place until permanent vegetation has been established.

4.2.27 ON-FARM BUSINESS

4.2.27.A An on-farm business must be:

- (1) A small business that forms as a natural extension of the farm (as defined in these regulations) and the ongoing, active agricultural use of the property;
- (2) Subordinate to the agricultural operation;
- (3) Integrated with the agricultural operation;
- (4) Located within or adjacent to other developed areas or activity centers on the farm, except that the Development Review Board may waive this requirement upon the applicant demonstrating that the proposed use needs greater separation from agricultural activities or residential areas;
- (5) Sited so that associated development (buildings, parking, etc.) will be located off primary agricultural soils to the maximum extent feasible;
- (6) Appropriate in scale and intensity given the location;

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- (7) Designed and operated in accordance with any specific use standards in this chapter for similar businesses not located on a farm (a barn used for events must meet the standards of Section 4.2.20, etc.); and
- (8) Sited and designed to maintain a rural and agricultural character, and not a commercial or industrial character.

4.2.27.B In addition to the signs allowed under Section 4.3.6, an on-farm business may display not more than 6 temporary signs advertising products or activities currently in season as follows:

- (1) A temporary sign may be mounted on a permanent support structure;
- (2) Each temporary sign must not be more than 8 square feet in area or more than 8 feet in height;
- (3) An individual temporary sign must not be displayed for more than 90 days in any calendar year; and
- (4) Temporary signs may be located on any land farmed by the operator of the on-farm business or any land producing agricultural products used or sold by the on-farm business.

4.3 Site Design Standards

4.3.1 LANDSCAPING

4.3.1.A **Purpose.** The provisions of this section are intended to:

- (1) Enhance the appearance of development in Waterbury;
- (2) Provide shade, and reduce heat and glare;
- (3) Control soil erosion and manage stormwater runoff;
- (4) Screen potentially incompatible land uses and utilitarian site features; and
- (5) Calm traffic and improve pedestrian safety and comfort.

4.3.1.B **Applicability.** Proposed development subject to major site plan approval, including planned unit developments, must provide landscaping in accordance with the provisions of this section.

4.3.1.C **General Standards.** All landscaping required under this section must conform to the following:

- (1) **Landscape Plan.** Applicants for major site plan approval must submit a landscape plan prepared by a licensed landscape architect or a certified horticulturist if landscaping will be altered or installed.
- (2) **Plant Materials.** Plant materials must meet the specifications in Figure 4-02. Waterbury strongly encourages use of native species and prohibits use of invasive species.

- (3) **Performance Bond.** If landscaping cannot be installed at an appropriate stage in the construction due to time of year or unusual weather conditions, the applicant may install the landscaping within a reasonable time frame. The applicant must submit a performance bond to ensure that landscaping will be installed in accordance with the approved plans. The performance bond will be held until the landscaping is completed.
- (4) **Maintenance.** Landscaping required under this section or as a condition of approval must be maintained in a healthy condition. Dead or dying plants must be replaced within 1 growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 4-02.
- (5) **Inspection.** The Development Review Board may require that the Zoning Administrator inspect the site to determine that the plant materials are healthy and that the landscaping is functioning as intended after several growing seasons as a condition of approval. An inspection is recommended when landscaping is integral to ensuring that the proposed development performs as approved (such as within green stormwater infrastructure or riparian buffers, or where there is a specific screening or aesthetic concern, for example).

Figure 4-02. **Planting Specifications**

Plant Material	Maximum Crown/Spread (at maturity)	Maximum Height (at maturity)	Minimum Caliper (at planting)	Minimum Height (at planting)	Minimum Soil Volume (per plant)	Equivalent Planting Units
Large Tree	40 ft or more	50 ft or more	2.5 inches for single-trunk trees (measured at 6" above grade)	6 ft for multi-trunk trees	1,000 cf	1.0
Medium Tree	30 to <40 ft	30 to <50 ft			500 cf	0.8
Small Tree	<30 ft	<30 ft			250 cf	0.6
Large Shrub	9 ft or more	8 ft or more	n/a	30 in	120 cf	0.5
Medium Shrub	6 to <9 ft	4 to <8 ft	n/a	18 in	60 cf	0.3
Small Shrub	<6 ft	<4 ft	n/a	12 in	15 cf	0.1

Notes

Minimum soil volume will not include any soil below 4 feet in depth (ex. 1,000 cf could equal an area 20' wide by 25' long by 2' deep or an area 10' wide by 25' long by 4' deep).

Minimum soil volume per plant may be reduced by 40% for planting areas not less than 10 ft in any dimension and 3 ft deep that will be landscaped multiple plants.

Existing, healthy, mature plant materials that will be preserved may be counted towards landscaping requirements at a rate of 120% of the applicable equivalent planting units.

Perennial ornamental plants may be substituted for not more than 30% of the total number of required plants at a rate of 0.1 equivalent planting units. Minimum size at planting must be a #1 container or equivalent.

4.3.1.D Front Yard Standards. Proposed development requiring major site plan approval must provide landscaping within the minimum front yard setback, except where the principal building is or will be constructed to the edge of the sidewalk, in accordance with the following:

- (1) **Location.** Front yard landscaping must be provided between the edge of the street right-of-way and the frontline of the principal building to:
 - (a) Highlight and enhance entrances to the site and/or free-standing signs located within the front setback;
 - (b) Provide direction to and enhance building entrances;

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- (c) Provide visual breaks along blank building facades;
 - (d) Enhance and shade sidewalks and walkways;
 - (e) Screen parking areas or other utilitarian site elements; and/or
 - (f) Intercept and filter stormwater runoff.
- (2) **Specifications.** Front yard landscaping must conform to the planting specifications in Figure 4-02.
 - (3) **Quantity.** Front yards must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 15 feet of lot frontage (exclusive of street trees).
 - (4) **Green Stormwater BMPs.** Waterbury strongly encourages front yard landscaping to also function as green stormwater best management practices (BMPs). The Development Review Board may modify the standards of this section to accommodate green stormwater BMPs.
- 4.3.1.E **Streetscape Standards.** Proposed development requiring major site plan or subdivision approval must provide street trees along existing and proposed roads in accordance with the following:
- (1) **Applicable Districts.** Streetscaping requirements will not apply to property with road frontage in the Residential 1, Rural or Conservation districts.
 - (2) **Location.** Street trees must be planted as follows:
 - (a) Within 3 feet of the edge of the road right-of-way unless otherwise recommended by the Department of Public Works or the Vermont Agency of Transportation, as applicable.
 - (b) In a planting strip or a tree well within or immediately adjacent to the road right-of-way that is not less than 4 feet in any dimension unless otherwise recommended by the Department of Public Works or the Vermont Agency of Transportation, as applicable.
 - (3) **Specifications, Size and Spacing.** Street trees must conform to the planting specifications in Figure 4-02 and must be sized and spaced as follows:
 - (a) Where there are no existing or proposed overhead utility lines, street trees must be large trees.
 - (b) Where there are existing or proposed overhead utility lines 35 feet or more in height, street trees must be medium trees.
 - (c) Where there are existing or proposed overhead utility lines less than 35 feet in height, street trees must be small trees.
 - (d) Street trees must be planted with a reasonably even, linear spacing as specified below:
 - (i) Large trees must be planted at a minimum ratio of one for every 50 feet of frontage.
 - (ii) Medium or small trees must be planted at a minimum ratio of one for every 30 feet of frontage.
 - (e) The Development Review Board may modify the above requirements and allow

the applicant to:

- (i) Plant medium or small trees if buildings or similar obstructions will conflict with large trees as they mature, the for large street trees.
 - (ii) Shift the spacing of street trees to accommodate site features or maintain sight distance.
- (4) **Preservation of Existing Trees.** Waterbury strongly encourages preservation of existing, healthy, mature trees. The Development Review Board may waive the location, spacing and alignment standards above to allow existing, healthy, mature trees within 10 feet of the edge of the road right-of-way to meet street tree requirements.

4.3.1.F **Parking Area Standards.** Proposed development requiring major site plan approval must landscape existing and proposed off-street surface parking areas in accordance with the following:

- (1) **Location.** Single-loaded parking areas with up to 10 spaces and double-loaded parking areas with up to 20 spaces may be landscaped solely along the perimeter of the parking area provided that the planting area is not less than 8 feet in any dimension. All other parking areas must incorporate landscaped planting islands within the parking area.
- (2) **Planting Islands.** Planting islands must:
 - (a) Be not less than 8 feet in length or width.
 - (b) Equal an area that is not less than 15% of the total area of parking spaces (excluding access aisles).
- (3) **Specifications.** Parking area landscaping must conform to the planting specifications in Figure 4-02.
- (4) **Quantity.** Parking areas visible from the street must be landscaped with not less than 1.0 equivalent planting unit (EPU) for every 4 parking spaces. Parking areas located behind buildings or otherwise screened from street view must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 8 parking spaces.
- (5) **Expansion of Pre-Existing Parking Areas.** Parking areas that are being expanded must conform to the landscaping requirements of this section as follows:
 - (a) If the increase in the number of spaces and impervious surface will be not more than 40% from what existed prior to [EFFECTIVE DATE], the quantity of landscaping required will be based on the number of new spaces.
 - (b) If the increase in the number of spaces or impervious surface will be more than 40% from what existed prior to [EFFECTIVE DATE], the quantity of landscaping required will be based on total number of spaces (new + existing).
- (6) **Redesign or Resurfacing of Pre-Existing Parking Areas.** Parking areas that are being redesigned or resurfaced with no increase in impervious surface must conform to the landscaping requirements of this section as follows:
 - (a) If the parking area (or a portion of the parking area) is located between the building and the street, the parking area (or front portion of the parking area) must be brought into full conformance with the landscaping requirements of this section.
 - (b) If the parking area is located to the side or rear of the building, the applicant will

not be required to meet the landscaping requirements of this section.

- (7) **Green Stormwater BMPs.** Waterbury strongly encourages parking area landscaping to also function as green stormwater best management practices (BMPs). The Development Review Board may modify the dimensional standards of this section to accommodate green stormwater BMPs.

4.3.2 OUTDOOR LIGHTING

4.3.2.A **Purpose.** The provisions of this section are intended to:

- (1) Ensure that outdoor lighting is designed to maintain safety and security;
- (2) Minimize the obtrusive and disruptive aspects of outdoor lighting;
- (3) Reduce energy use by directing appropriate amounts of light where and when it is needed, and using energy-efficient light sources; and
- (4) Prevent light trespass and glare by requiring light fixtures to be shielded and properly aimed.

4.3.2.B **Applicability.** All outdoor lighting must be installed in accordance with the provisions of this section except for public street lights located within rights-of-way and lights on residential property exempted in Paragraph 1.2.6.A(16).

4.3.2.C **General Standards.** Outdoor lighting must conform to the following:

- (1) **Lighting Plan.** Applicants for major site plan approval must submit a lighting plan prepared by a professional lighting engineer or designer if outdoor lighting will be altered or installed.
- (2) **Shielding.** All outdoor light fixtures must be shielded as specified in Figure 4-03 or Figure 4-04 as applicable. All fixtures that are required to be fully shielded must be installed and maintained in such a manner that the shielding is effective.
- (3) **Total Output.** Total output from all light fixtures on a site must not exceed the limits specified in Figure 4-03 or Figure 4-04 as applicable.
- (4) **Uniformity.** Outdoor lighting must be designed to provide a uniform distribution of light in areas regularly traversed by vehicles or pedestrians. Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are prohibited.
- (5) **Spot Light Aiming.** Light fixtures containing spot or flood lamps must be aimed no higher than 45° above straight down. When aimed straight down, such light fixtures will be considered fully shielded; when aimed above straight down, they will be considered partially shielded. Use of flood or similar high-intensity lighting is discouraged.
- (6) **Freestanding Lights.** Freestanding light fixtures must not exceed 24 feet in height. Freestanding light fixtures may be located within setbacks. Use of decorative fixtures not more than 12 feet in height is encouraged to light walkways and other pedestrian-oriented spaces.
- (7) **Light Trespass.** Outdoor light fixtures must be oriented and shielded as necessary to prevent light trespass over adjacent property or rights-of-way.

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- (8) **Internally Illuminated Architecture.** The initial lamp output of any architectural element (ex. wall, fascia or canopy edge) that is internally illuminated will be considered partially shielded, Class 3 lighting.
- (9) **Luminous Tube Lighting.** Luminous tube lighting does not require shielding but it will be considered partially shielded lighting for the purposes of calculating total outdoor light output for the site.
- (10) **Time Limits.** Outdoor lighting must be extinguished as specified in Figure 4-03 or Figure 4-04 as applicable unless otherwise approved by the Development Review Board upon finding the lighting necessary to protect public safety or secure the property. The Development Review Board may further limit when outdoor lighting may be used as deemed necessary to achieve the purposes of this section and protect the character of the area.

4.3.2.D **Special Use Lighting.** There are additional lighting standards for the following uses:

- (1) **Recreation Facilities.** Lighting for outdoor recreation facilities must conform to the following:
 - (a) Lighting for outdoor recreation facilities will be exempt from the lumens per square foot limit specified in specified in Figure 4-03 or Figure 4-04.
 - (b) The facility lighting must be designed to achieve no greater than the minimal levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
 - (c) Light fixtures must be fully-shielded or use internal and/or external louvers or shields to minimize off-site glare and light trespass.
 - (d) Light fixtures must be installed and maintained with aiming angles that permit no greater than 5% of the light emitted by each fixture to project above the horizontal.
 - (e) All field lighting must be extinguished within 30 minutes of the cessation of play. Events must be scheduled so as to complete activity before 11 p.m. Illumination of the facility will be permitted after 11 p.m. only to conclude a scheduled event that did not conclude before the time limit due to unusual circumstances.
- (2) **Sales Lots.** Lighting for the frontage row display area of a sales lot must conform to the following:
 - (a) Lighting for the frontage row of the display area will be considered Class 1 lighting.
 - (b) All frontage row lighting must use fully-shielded light fixtures.
 - (c) The total outdoor light output used for illuminating the frontage row display area must not exceed 60 lumens per square foot of the frontage row display area.
 - (d) Lighting for the frontage row will be exempt from the lumens per square foot limit specified in Figure 4-03 or Figure 4-04.
 - (e) Any frontage row lighting that exceeds the lumens per square foot limit specified in Figure 4-03 or Figure 4-04 must be turned off after 10 p.m., or 30 minutes after the close of business if later.
 - (f) Frontage row lighting remaining on after the time limit will be considered Class 2 lighting and must conform to the applicable standards of this section.

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- (3) **Fueling Station Canopies.** Lighting for fueling station canopies must conform to the following:
- (a) Lighting for fueling station canopies will be considered Class 1 lighting.
 - (b) All light fixtures mounted on or recessed into the lower surface of the canopy must be fully shielded and use flat lenses.
 - (c) The total light output used for illuminating fueling station canopies must not exceed 60 lumens per square foot of canopy.
 - (d) The total light output used for illuminating fueling station canopies will be counted towards the site's lumens per square foot limit as specified in Figure 4-03 or Figure 4-04.

Figure 4-03. **Lighting Zone 1**

Applicable Districts	
Residential 10, Residential 5, Residential 1, Rural, Conservation	
Class 1 Lighting	
Class 1 Lighting includes all outdoor lighting used for outdoor dining or food service areas, outdoor assembly or maintenance facilities where regularly scheduled work occurs after dark, public assembly areas or recreational facilities used after dark, signs or similar applications where color rendition is essential to the illuminated activity or purpose of the lighting.	
SHIELDING	
Initial output not more than 2,000 lumens	Fully shielded fixtures required
Initial output 2,000 lumens or more	Fully shielded fixtures required
TIME LIMITS	
Initial output not more than 2,000 lumens	10 p.m. or 30 min after close of business if later
Initial output 2,000 lumens or more	10 p.m. or 30 min after close of business if later
Class 2 Lighting	
Class 2 Lighting includes all outdoor lighting used for illumination of walkways, vehicular travel ways, equipment yards, parking lots, outdoor security or similar applications where general illumination for visibility, safety or security of the grounds is the primary concern.	
SHIELDING	
Initial output not more than 2,000 lumens	Fully shielded fixtures required
Initial output 2,000 lumens or more	Fully shielded fixtures required
TIME LIMITS	
Initial output not more than 2,000 lumens	10 p.m. or 30 min after close of business if later
Initial output 2,000 lumens or more	10 p.m. or 30 min after close of business if later
Class 3 Lighting	
Class 3 Lighting includes all outdoor lighting used for decorative purposes such as illumination of landscaping, public art, flags or building walls, or internally illuminated architectural elements.	
SHIELDING	
Initial output not more than 2,000 lumens	Partially or fully shielded fixtures may be used
Initial output 2,000 lumens or more	Fixtures of this intensity used for this purpose are prohibited
TIME LIMITS	
Initial output not more than 2,000 lumens	10 p.m. or 30 min after close of business if later
Initial output 2,000 lumens or more	10 p.m. or 30 min after close of business if later
Total Light Output (Class 1-3)	
All light fixtures (fully + partially shielded)	1.25 lumens per sq ft of developed lot area max
Partially shielded light fixtures only	0.125 lumens per sq ft of developed lot area max

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Figure 4-04. **Lighting Zone 2**

Applicable Districts		
Downtown, Mixed Use, Institutional, Commercial-Industrial, Tourism Business		
Class 1 Lighting		
Class 1 Lighting includes all outdoor lighting used for outdoor dining or food service areas, outdoor assembly or maintenance facilities where regularly scheduled work occurs after dark, public assembly areas or recreational facilities used after dark, signs or similar applications where color rendition is essential to the illuminated activity or purpose of the lighting.		
SHIELDING		
Initial output not more than 2,000 lumens		Partially or fully shielded fixtures may be used
Initial output 2,000 lumens or more		Fully shielded fixtures required
TIME LIMITS		
Initial output not more than 2,000 lumens		n/a
Initial output 2,000 lumens or more		10 p.m. or 30 min after close of business if later
Class 2 Lighting		
Class 2 Lighting includes all outdoor lighting used for illumination of walkways, vehicular travel ways, equipment yards, parking lots, outdoor security or similar applications where general illumination for visibility, safety or security of the grounds is the primary concern.		
SHIELDING		
Initial output not more than 2,000 lumens		Partially or fully shielded fixtures may be used
Initial output 2,000 lumens or more		Fully shielded fixtures required
TIME LIMITS		
Initial output not more than 2,000 lumens		n/a
Initial output 2,000 lumens or more		n/a
Class 3 Lighting		
Class 3 Lighting includes all outdoor lighting used for decorative purposes such as illumination of landscaping, public art, flags or building walls, or internally illuminated architectural elements.		
SHIELDING		
Initial output not more than 2,000 lumens		Partially or fully shielded fixtures may be used
Initial output 2,000 lumens or more		Fixtures of this intensity used for this purpose are prohibited
TIME LIMITS		
Initial output not more than 2,000 lumens		10 p.m. or 30 min after close of business if later
Initial output 2,000 lumens or more		10 p.m. or 30 min after close of business if later
Total Light Output (Class 1-3)		
All light fixtures (fully + partially shielded)		2.5 lumens per sq ft of developed lot area max
Partially shielded light fixtures only		0.25 lumens per sq ft of developed lot area max

4.3.3 OUTDOOR USE AREAS

4.3.3.A **Applicability.** Outdoor service, work, display or storage associated with land uses subject to site plan approval must conform to the standards of this section.

4.3.3.B **General Standards.** All outdoor use areas must conform to the following:

- (1) All outdoor use areas must be shown on the site plan and must not be expanded beyond the area depicted unless the site plan is amended in accordance with these regulations.
- (2) Outdoor use areas must not be located on or extend into public rights-of-way except as approved by the Waterbury Selectboard.

4.3.4 PARKING AND LOADING AREAS

4.3.4.A **Purpose.** The provisions of this section are intended to:

- (1) Ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding roads;
- (2) Avoid creating excess parking and loading areas that result in increased flooding and land consumption, and decreased water quality and pedestrian-friendliness;
- (3) Promote greening and quality design of parking and loading areas to improve stormwater performance and enhance the character of streetscapes and property frontages in Waterbury.

4.3.4.B **Applicability.** All development must provide off-street parking and all nonresidential or mixed-use development must provide loading areas in accordance with this section except as specifically exempted below:

- (1) **Small Businesses.** There are no minimum parking or loading requirements for non-residential uses in the Downtown, Mixed Use or Residential 10 districts that occupy not more than 2,000 square feet and that are located either on a street with on-street parking or within 1,000 feet (as measured along the sidewalk) of public parking. Any off-street parking areas or loading that will be provided must be sized, located and designed in accordance with the provisions of this section.
- (2) **Natural Resource Based Uses.** There are no minimum parking or loading requirements for natural resource based uses. Any off-street parking or loading areas that will be provided must be sized, located and designed in accordance with the provisions of this section.

4.3.4.C **Amount of Parking.** Except as exempted in Subsection 4.3.4.B, all development must provide an adequate amount of off-street parking to fully meet the needs of the proposed use(s) in accordance with the following:

- (1) **Minimum Number of Spaces.** The minimum number of spaces will be as specified below unless the applicant submits a professionally prepared parking study establishing the amount of parking needed:
 - (a) **Residential Uses:** 2 per detached single-family dwelling. For all other dwellings, 1 per unit plus 0.2 for each bedroom in excess of one (i.e., 1.2 for a two-bedroom unit, 1.4 for a three-bedroom unit, etc.).

- (b) **Lodging Uses:** 1.2 per guest room.
 - (c) **Commercial Uses:** 1 per 500 square feet of gross floor area (does not include outdoor use areas).
 - (d) **Industrial Uses:** 1 per 1,000 square feet of gross floor area (does not include outdoor use areas).
 - (e) **Arts, Entertainment, Recreation, Civic and Community Uses:** 1 per 5 seats or 1 per 500 square feet of gross floor area if no seats.
- (2) **Structured Parking.** Parking spaces located within garages, carports or other structures may count towards meeting off-street parking requirements.
- (3) **Maximum Number of Spaces.** The maximum number of parking spaces will be twice the minimum number of spaces based on the applicable ratio in Paragraph (1), above, unless the applicant submits a professionally prepared parking study establishing the amount of parking needed.
- (4) **Calculation of Number of Spaces.** The Zoning Administrator will determine which ratio in Paragraph (1), above, applies to a proposed use. When calculating the total number of spaces, any decimal will be rounded up to the nearest whole number. On lots with multiple units or uses, the number of spaces for all units and/or uses may be added together before rounding up any decimal.
- (5) **Modification of Number of Spaces.** The Development Review Board may increase or decrease the amount of off-street parking required if:
- (a) The applicant submits a parking study prepared by a qualified professional demonstrating the amount of parking that will be needed;
 - (b) The applicant meets the requirements for shared parking in Subsection 4.3.4.D;
 - (c) The applicant demonstrates that there is adequate on-street or public parking available within 1,000 feet (as measured along the sidewalk) of the proposed development to meet all or a portion of the demand; or
 - (d) A suitable open space area is dedicated on the site plan for conversion to future parking as demand warrants.
- 4.3.4.D **Shared Parking.** The Development Review Board may approve a cooperative parking plan to allow parking to be shared by two or more uses and/or to be provided off-site in accordance with the following:
- (1) Calculate the total amount of shared parking required by:
 - (a) Determining the minimum parking requirements for each use as if it were a separate use in accordance with Subsection 4.3.4.C.
 - (b) Multiply each amount by the corresponding percentages for each of the five time periods set forth in Figure 4-05. The Zoning Administrator will establish percentages for any unlisted use.
 - (c) Calculate the total for each time period.
 - (d) Select the highest total as the required minimum number of shared parking spaces.

- (2) Any shared or off-site parking must be located within 1,000 feet of the associated use (as measured along the sidewalk or walkway) unless shuttle service is provided. The parking area and building(s) served must be connected by a sidewalk and/or pedestrian walkway. The Development Review Board may waive the requirement for the sidewalk or walkway connection in the Residential 1, Rural or Conservation districts upon the applicant demonstrating that the pedestrian traffic can be safely accommodated on the road.
- (3) The applicant must record a written agreement between the owners and lessees, executed for a minimum of 10 years, in the Waterbury land records. Should the use(s), parties involved, or terms of the agreement change in a manner that would alter the amount of parking provided or required, the agreement will need to be revised, re-approved and re-recorded in accordance with this section. Should the agreement expire or otherwise terminate, the use(s) for which the shared or off-site parking was provided will be considered in violation of these regulations unless replacement parking is provided in accordance with this section.
- (4) The applicant must submit plans showing the location of the use(s) or structure(s) for which shared or off-site parking will be provided, the location of the parking, and the schedule of times used by those sharing the parking.

Figure 4-05. **Shared Parking Percentages**

Land Use	WEEKDAY		WEEKEND		Nighttime (12 am – 6 am)
	Daytime (9 am – 4 pm)	Evening (6 pm – 11 pm)	Daytime (9 am – 4 pm)	Evening (6 pm – 11 pm)	
Office or Industrial	100%	10%	10%	5%	5%
Retail	60%	70%	100%	70%	5%
Lodging	50%	100%	50%	100%	100%
Dining	60%	100%	70%	100%	5%
Other Commercial	60%	80%	100%	90%	5%
Residential	50%	90%	80%	90%	100%

4.3.4.E Location Standards. Off-street parking and loading areas must be located as follows:

- (1) Required parking and loading areas must be located on the same lot as the use or structure they serve unless a cooperative parking plan is approved in accordance with Subsection 4.3.4.D.
- (2) Parking and loading must only occur on those portions of the lot indicated for such use on the approved site plan.
- (3) Required parking and loading areas must be located on the lot in accordance with the following:
 - (a) Parking and loading areas must meet the setback requirements of the applicable district. Shared parking areas may be located within a common side or rear setback provided that a cooperative parking plan is approved in accordance with Subsection 4.3.4.D.
 - (b) Loading areas, not including passenger loading areas, must be located to the side or rear of building they serve.

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- (c) Parking and loading areas must not be located within minimum required front setback.
- (d) In the Downtown, Mixed Use, Residential 10 and Commercial-Industrial districts, surface parking is prohibited between the street and the building front line.
 - (i) This will not be interpreted to prohibit parking of registered, operable motor vehicles within a residential driveway or lots used solely for public parking.
 - (ii) Owners may maintain nonconforming front parking until such time as development is proposed on the property that will require major site plan approval. During such a redevelopment front parking must be eliminated to the maximum extent feasible. It will be the applicant's responsibility to demonstrate why eliminating front parking is not feasible.

4.3.4.F **Dimensional Standards.** Off-street parking and loading areas must conform to the following:

- (1) **Parking Spaces.** Off-street parking spaces must not be less than 9 feet wide by 18 feet deep. Each space must be accessible from a driveway or access aisle except for:
 - (a) Spaces serving a single-family or two-family home; or
 - (b) Tandem parking (a double-depth parking space with one vehicle parking the other in) approved by the Development Review Board for multi-family housing, religious facilities or employee parking.
- (2) **Access Aisles.** The access aisles within a parking lot or structure must be not less than 20 feet wide except that one-way aisles serving angled parking spaces may be not less than 16 feet wide.
- (3) **Loading Areas.** Loading areas:
 - (a) Serving small trucks must have an overhead clearance of at least 10 feet and must be not less than 10 feet wide and 20 feet long, exclusive of access and maneuvering area.
 - (b) Serving tractor trailer trucks must have an overhead clearance of at least 14 feet and must be not less than 12 feet wide and 50 feet long, exclusive of access and maneuvering area.
 - (c) Located within 100 feet of a dwelling unit in a residential or mixed-use zoning district must not be used between the hours of 8 p.m. and 7 a.m. unless otherwise approved by the Development Review Board.
- (4) **Turnarounds.** All off-street parking and loading areas must be designed so that vehicles can enter and exit the property without backing out onto a street right-of-way except for parking that serves a single-family or two-family home and that does not require backing out onto an arterial street.

4.3.5 PERFORMANCE STANDARDS

4.3.5.A **Purpose.** The provisions of this section are intended to protect the character of the area and quality of life by preventing proposed development from creating or contributing to adverse off-site impacts.

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- 4.3.5.B **Noise.** Noise emanating off-site must be muffled, must not be distinct from the background sound level beyond the property line, and must not interfere with the reasonable use and enjoyment of nearby property. The Development Review Board may place specific limits on noise levels and hours of operation as deemed necessary to protect the character of the area.
- 4.3.5.C **Glare.** Lighting must not be used in such a manner that it produces glare on streets or nearby property. Arc welding, acetylene torch cutting or similar processes must be performed so as not be visible from any point beyond the property line.
- 4.3.5.D **Odors.** Emission of odors that are readily detectable without special instruments at any point beyond the property line and that interfere with the reasonable use and enjoyment of nearby property is prohibited.
- 4.3.5.E **Vibration.** Vibration that is easily discernible without special instruments at any point beyond the property line is prohibited. This will not apply to vibration caused by motor vehicle, train or aircraft traffic or during construction. The Development Review Board may approve greater vibration levels for a specified period, frequency and purpose as appropriate to the proposed development and location.
- 4.3.5.F **Electrical or Radio Interference.** No use or process must create interference with electrical or radio apparatus beyond the property line.
- 4.3.5.G **Waste and Material Storage.** Storage of wastes or materials that attract insects or rodents, or otherwise create a health hazard is prohibited. Applicants must show the location of waste or materials storage facilities (including, but not limited to dumpsters) on the site plan and must screen such facilities in accordance with Subsection 4.3.7.E.
- 4.3.5.H **Particulate Matter and Airborne Solids.** Generation of dust, dirt, fly ash or other airborne solids that accumulate at any point beyond the property line is prohibited except when related to approved construction or extraction activities. Generation of smoke or particulate matter beyond the property line that interferes with the reasonable use and enjoyment of nearby property is prohibited.
- 4.3.5.I **Flammable, Toxic or Hazardous Substances and Wastes.** Flammable, combustible or explosive materials must be stored and handled in conformance with state and federal regulations. Such materials must be securely stored within an enclosed building or tank. Toxic or hazardous substances or wastes must not be released into the environment so as to cause contamination of any potable water supply, sanitary sewer or septic system, watercourse or water body, soil or air except as specifically permitted by the Vermont Agency of Natural Resources.

4.3.6 SIGNS

- 4.3.6.A **Purpose.** By encouraging the orderly and appropriate design, scale and placement of signs, the provisions of this section are intended to:
- (1) Promote effective identification, communication and wayfinding;
 - (2) Ensure the safety and well-being of the users of streets, roads and highways in Waterbury;

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- (3) Reduce distractions and obstructions from signs which would adversely affect traffic safety, and to alleviate hazards caused by signs projecting over or encroaching upon public ways;
- (4) Discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- (5) Protect the natural and historic beauty of Waterbury's townscapes, rural highways, and scenic vistas from indiscriminate outdoor signage.

4.3.6.B **Applicability.** All signs must be designed and installed in accordance with the provisions of this section. The Zoning Administrator must issue a permit before any sign is erected, enlarged, replaced, reworded, redesigned or altered in any way except as specifically exempted in Subsection 4.3.6.C.

4.3.6.C **Exempt Signs.** The following signs are not subject to these regulations and do not require a zoning permit provided that they are not designed or installed in a manner that would cause them to be prohibited under Subsection 4.3.6.D:

- (1) Signs or notices erected or required by the municipality or state that are exempt from state regulation under 10 V.S.A § 494 (such as welcome signs, official traffic control signs, legal notices, hazard warning signs, and municipal information and guidance signs).
- (2) Temporary signs displayed not more than 14 days prior to or more than 7 days following an election or vote. Such signs may be located within town highway rights-of-way, but they must not be located within state highway rights-of-way nor be positioned primarily to be visible from a limited access highway.
- (3) Historic markers approved under Vermont's State Historic Site Marker program.
- (4) Signs memorializing the names of buildings, dates of erection, monument citations, commemorative tablets, and the like that are:
 - (a) Cut into masonry or affixed to the building with a permanent type of material, such as bronze; and
 - (b) An integral architectural element of the building.
- (5) Property identification signs (such as street address, mailbox number, building number, or resident's name) that are not:
 - (a) Free-standing (must be mounted on the building or a related accessory structure such as a mailbox); and
 - (b) Exceeding 1 square foot in area.
- (6) Signs located in or on the rolling stock of a common carrier while in use as a vehicle and exempt from state regulation under 10 V.S.A § 494.
- (7) Signs on a fully operable, registered and inspected motor vehicle while being primarily used as a vehicle and exempt from state regulation under 10 V.S.A § 494.
- (8) Directional, traffic control, parking, instructional or warning signs not exceeding 2 square feet in area.

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- (9) Signs incorporated into machinery or equipment by a manufacturer or distributor, which provide instruction or identify only the product or service dispensed by the machine or equipment (such as signs customarily affixed to vending machines, newspaper racks, ATMs or fuel pumps).
- (10) Not more than 16 square feet total (may include one or more signs) of temporary, unlit signs per establishment displayed in conjunction with a business opening, sale or special event in accordance with the following:
 - (a) The temporary signs must be located on the premises and outside public rights-of-way.
 - (b) The temporary signs must not be displayed more than 7 days in any 4-month period.
 - (c) The temporary signs must be securely attached to a building, a permanent ground-mounted sign, or other support structure that will anchor the sign to the ground adequately and prevent it from being blown off the premises.
 - (d) Temporary signs must be constructed of durable, weatherproof materials if they will be placed outdoors.
- (11) Temporary signs on public property or within public rights-of-way announcing a community or special event approved by the Municipal Manager's Office displayed not more than 14 days prior to or more than 7 days following the event.
- (12) Not more than 1 temporary, unlit, sign per lot that is not more than 16 square feet in area or 4 feet in height. No property owner may display such signs on a lot for more than a total of 28 days in any calendar year.
- (13) Not more than 1 temporary, unlit sign per development, design, engineering or construction firm associated with a project displayed on the premises of a construction site and not exceeding 16 square feet in area. Such signs must not be displayed prior to the start of construction must be removed promptly upon completion of the project.
- (14) Not more than 1 temporary, unlit sign per unit on property actively marketed for sale or lease by the owner or an agent that is not more than 6 square feet in area and 4 feet in height. Such signs must be removed promptly upon the sale or lease of the premises.
- (15) Temporary, unlit signs on property where seasonal agricultural products are sold that do not exceed 4 square feet in area. No such signs may be displayed on a lot for more than a total of 84 days in any calendar year.
- (16) Not more than 1 "open" flag that is not more than 15 square feet in area or 1 "open" window sign that is more than 2 square feet in area per establishment displayed in accordance with the following:
 - (a) The establishment must not display an "open" flag or sign when the establishment is closed (flags must be brought in and window signs must be turned off).
 - (b) The flag must be mounted so that it does not conflict with pedestrian use of any adjacent sidewalk.
 - (c) Open signs may be illuminated with a steady light that does not change color, fade, flash, scroll or incorporate similar animation effects.

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- (17) Not more than 1 portable, unlit, freestanding sign (i.e., sandwich board sign) per establishment that is not more than 8 square feet in area and 4 feet in height displayed in accordance with the following:
 - (a) Such signs may be located on public sidewalks but must be located within 15 feet of the entry door to the advertised business.
 - (b) The sign may only be displayed when the establishment is open.
 - (c) The sign must be placed so that it does not conflict with pedestrian use of the sidewalk, including maintaining compliance with the access requirements of the Americans with Disabilities Act.
- (18) Flags and insignia of any government, religious, charitable, fraternal or similar organization.

4.3.6.D Prohibited Signs. The following signs are prohibited:

- (1) Off-premise signs except for signs on a common scheme premises in conformance with this section or signs that are exempt from state regulation under 10 V.S.A § 494.
- (2) Abandoned signs.
- (3) Signs applied or attached to trees, utility poles, public benches, streetlights or similar public infrastructure.
- (4) Signs placed within a public right-of-way except as specifically authorized in this section.
- (5) Signs that obstruct pedestrian traffic or visibility.
- (6) Signs that limit drivers' sight distance, that could be confused with official highway signs or signals, that unduly distract drivers' attention, or that otherwise impair public safety.
- (7) Signs illuminated by, composed of, or containing intermittent, rotating or moving lights, except for time and temperature signs and barber poles or for electronic message signs as specifically authorized in this section.
- (8) Signs containing reflective elements or fluorescent paint.
- (9) Signs that are comprised of or incorporate laser source lights, searchlights or other high intensity lights.
- (10) Projected image signs.
- (11) Permanent signs that move or that incorporate any streamer, pennant, ribbon, spinner, balloon, inflatable or other similar moving, fluttering or revolving device, including but not limited to feather or whip signs. Such signs may be allowed as temporary signs.
- (12) Signs that use obscene, lewd, vulgar or indecent words or images.
- (13) Freestanding signs more than 24 feet in height and building mounted signs that extend above the building's roofline.
- (14) Signs designed and located primarily to be visible from limited access highways.
- (15) Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.

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4.3.6.E **General Standards.** All signs subject to permitting under this section must conform to the following:

- (1) Signs must be structurally sound and located so that they do not pose a threat to pedestrian or vehicular traffic.
- (2) Permanent free-standing signs must be self-supporting structures built on and attached to concrete foundations.
- (3) Signs must be designed to withstand a wind pressure of at least 30 pounds per square foot.
- (4) Signs must be constructed of durable, all-weather materials.
- (5) Signs must be kept in “like new” condition and must be maintained or repaired as necessary to prevent deterioration, fading or similar damage.
- (6) Signs must not be designed or located in a manner that would obstruct access to any fire escape, required exit, window or door.
- (7) Signs must not be designed or located in a manner that would obscure architectural features such as cornices, arches, columns, etc.

4.3.6.F **Signs for Specific Uses.** There are additional sign standards for the following uses:

- (1) **Common Scheme Premises Signs.** Signage for a single development site that consists of multiple uses, buildings and/or lots sharing a common driveway must be designed and located in a comprehensive and coordinated manner as set forth in an approved signage master plan in accordance with the following:
 - (a) A common scheme premises may use free-standing signs that advertise multiple uses irrespective of whether the advertised uses are located on the same lot as the sign or the ownership of the lots.
 - (b) All signs located on a common scheme premises must be consistent with the site’s approved signage master plan. The master plan must include proposed sign locations, sign types, and schematic design concepts for each sign type.
 - (c) A zoning permit will not be required to replace a panel or reword the message portion of a common scheme premises sign provided that there is only a change in content and there are no changes to the approved sign location, size, type or design.
- (2) **Fuel Pricing Signs.** In addition to the signs otherwise allowed under this section, a fueling station may have pricing signs as follows:
 - (a) Each pump may have a pricing sign mounted on it that is not more than 2 square feet in area.
 - (b) Each side of the canopy visible from the road may have a pricing sign that is not more than 6 square feet in area.
 - (c) Pricing signs may be single-color changeable-copy electronic message signs provided that the message does not change more than once per hour and that the signs are turned off after the close of business or 11 p.m., whichever is later, and are not turned back on before dawn or the opening of business, whichever is earlier. If the station is open 24 hours, the signs must dim automatically in response to ambient light levels.

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- (3) **Other Signs.** In addition to the signs otherwise allowed under this section, the following signs are allowed:
 - (a) One sign mounted on the building near each entrance that is not more than 2 square feet in area. Such signs may be externally illuminated but must not be internally illuminated.
 - (b) One sign mounted near a drive-through or walk-up service window that is not more than 24 square feet in area and, if free-standing, 6 feet in height. Such signs may be internally illuminated. Such signs must not be illuminated if an establishment displaying the sign is not open for business.
- (4) **Home Occupation Signs.** A home occupation is limited to 1, unlit sign not more than 2 square feet in area and 4 feet in height.
- (5) **Neighborhood Identifications Signs.** A subdivision, development or neighborhood may have 1 sign at each entrance that is not more than 4 square feet in area and 6 feet in height identifying its name.

4.3.6.G Specific Standards. All signs must conform to the following:

- (1) **External Sign Lighting.** External lighting of signs must be designed and located to avoid light trespass and glare, and must conform to the following unless otherwise specified in this section:
 - (a) Sign lighting must be steady light of only one color except as specifically authorized in this section.
 - (b) The total light output of external fixtures illuminating a sign must not exceed 5 lumens per square foot of sign area.
 - (c) Fixtures used to illuminate signs must be fully-shielded, and located and aimed so that the light falls entirely on the sign or wall behind the sign. Signs must be lit from above or be backlit. Light or glare must not be directed towards a road or other vehicular travel way, or adjoining property.
 - (d) Sign lighting must be turned off by 11 p.m., or the close of business if later. The Development Review Board may further limit when signs may be illuminated as deemed necessary to achieve the purposes of this section and protect the character of the area.
 - (e) Signs must not be lit by strings of bulbs. This will not be interpreted to prohibit temporary holiday decoration.
- (2) **Internally Illuminated Signs.** Internally illuminated signs must conform to the following unless otherwise specified in this section:
 - (a) There must not be more than one internally illuminated sign per lot.
 - (b) The total light output of fixtures illuminating the sign must not exceed 10 lumens per square foot of sign area.
 - (c) Internally illuminated pole, monument, projecting or hanging signs must not exceed 12 square feet in area, or the maximum sign area specified in Subsection 4.3.6.I whichever is less.
 - (d) Internally illuminated wall signs must be designed as channel letter signs.

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- (e) Internally illuminated signs must be constructed with either:
 - (i) An opaque background and translucent text and symbols; or
 - (ii) A colored background that is darker than the text and symbols
 - (f) Internally illuminated signs must not flash, brighten, dim, change color or otherwise be animated.
 - (g) Not more than 30% of the area of an internally illuminated sign may be used for advertising a product(s) available on the premises.
- (3) **Sign Area.** Sign area will be calculated in accordance with the following:
 - (a) The sign area will include all the elements that serve primarily to communicate the sign's message and not the structural elements supporting or serving as a background for the sign.
 - (b) The area of a sign will be calculated by drawing a rectangle around all the elements that serve to communicate the sign's message. The area of signs that consist of multiple elements may be calculated by drawing a separate rectangle around each element and totaling the area.
 - (c) Sign area will only include one side of a double-sided sign. The Zoning Administrator or Development Review Board may waive or modify the sign area requirements for three-dimensional signs.
 - (d) The calculated signable area of a non-rectangular sign will be adjusted to compensate for the amount of negative space within the sign area rectangle as follows:
 - (i) No adjustment if the amount of negative space within the sign area rectangle is less than 30%;
 - (ii) A 15% reduction in the calculated area if the amount of negative space within the sign area rectangle is at least 30% and less than 50%;
 - (iii) A 30% reduction in the calculated area if the amount of negative space within the sign area rectangle is at least 50% and less than 70%; or
 - (iv) A 45% reduction in the calculated area if the amount of negative space within the sign area rectangle is 70% or greater.
- (4) **Sign Removal.** A sign must be removed within 90 days of its associated use being changed or terminated as follows:
 - (a) For conforming signs, only the message components of the sign associated with the changed or terminated use must be removed or covered, and the support components may remain.
 - (b) For nonconforming signs, both the message and support components of the sign associated with the changed or terminated use must be removed.
- (5) **Nonconforming Signs.** Nonconforming signs will be regulated as follows:
 - (a) A nonconforming sign must not be relocated unless the relocation will bring the sign into compliance with these regulations.
 - (b) The support components of a nonconforming sign may be repaired or maintained

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provided that there is no change in materials, dimensions or location except if the alteration will bring the sign into conformance with these regulations.

- (c) The message components of a nonconforming sign may be repaired or maintained by replacing or repainting a sign panel, individual letters or graphics within the same sign area provided that there is no change in the sign's primary content except a change in content will be allowed if:
 - (i) The alteration will bring the sign into conformance with these regulations; or
 - (ii) The business undergoes a name or affiliation change with no other changes in its operation, in which case the sign may be altered, modified or reconstructed to update the business name or affiliation by replacing or repainting a sign panel, individual letters or graphics within the same sign area.
- (d) A nonconforming sign that is severely damaged or deteriorated to the extent that the cost of repair or restoration will exceed 50% of the replacement value of the sign must be removed or brought into conformance with these regulations.

4.3.6.H **Sign Types.** The following types of signs are allowed in Waterbury as specified in Subsection 4.3.6.I:

- (1) Wall signs must:
 - (a) Be mounted flat against a building wall.
 - (b) Consist of:
 - (i) Individual cut letters or symbols applied directly to the building,
 - (ii) Letters or symbols painted, raised and/or engraved on a panel that is applied directly to the building, or
 - (iii) Letters or symbols painted directly on the surface of the building.
 - (c) Wall signs may be placed above shopfronts. They typically run horizontally along a sign band above the storefront windows, an expression line between stories, an entablature of traditional buildings, or a decorative cornice at the top of a building.
- (2) Awning signs:
 - (a) May be painted, screen printed, or appliqued on awnings used to provide weather protection and keep shopfront interiors shaded.
 - (b) May only include the building or business name, logo and/or address.
 - (c) Must not be illuminated.
- (3) Window signs must:
 - (a) Be painted or applied directly on the inside of the window.
 - (b) Consist of individual letters and designs with a clear background.
 - (c) Must not be illuminated.
- (4) Pole signs:
 - (a) May be double-faced.
 - (b) Must be mounted on a single or pair of round poles, square tubes, or other fabricated members without any type of secondary support.

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- (c) May not be combined with a monument or landscape wall sign.
- (d) Must be located at least 12 feet from side and rear property lines.
- (e) Must not be located within the road or other public right-of-way.
- (5) Monument signs must:
 - (a) Stand directly on the ground or ground level foundation.
 - (b) May not be combined with a monument or landscape wall sign.
 - (c) Be located at least 12 feet from side and rear property lines.
 - (d) Not be located within the road or other public right-of-way.
- (6) Projecting signs:
 - (a) Must be mounted perpendicular to a building's facade (typically from decorative metal brackets).
 - (b) May be hung in a manner that permits them to swing slightly.
 - (c) May be double-faced.
 - (d) Must not project more than 4 feet from the building wall.
 - (e) Must not encroach closer than 2 feet to the edge of the curb.
 - (f) Must have a clear height from the sidewalk (or ground surface) to the lowest portion of the sign of not less than 9 feet.
 - (g) Must not be combined with a hanging sign for the same establishment.
- (7) Hanging signs:
 - (a) Must be mounted to the underside of beams or ceilings of a porch, gallery, arcade, breezeway or similar covered area.
 - (b) May be hung in a manner that permits them to swing slightly.
 - (c) May be double-faced.
 - (d) Must have a clear height from the sidewalk (or ground surface) to the lowest portion of the sign of not less than 9 feet.
 - (e) Must not be combined with a projecting sign for the same establishment.
- (8) Directory signs:
 - (a) May include only a listing and/or map of establishments within a building or series of buildings and their floor/suite number, street address and similar identification information.
 - (b) May be double-faced.
 - (c) Must be located at a vehicular or pedestrian entrance.
- (9) Landscape wall signs:
 - (a) Must be attached to a freestanding or retaining wall enclosing a landscaped area.
 - (b) May not be combined with a pole or monument sign.
 - (c) Must be located at least 12 feet from side and rear property lines.

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- (d) Must not be located within the road or other public right-of-way.

4.3.6.I Dimensional and Location Standards. Signs must conform to the dimensional and location standards below based on the applicable zoning district:

TYPES ALLOWED	MAX AREA	MAX HEIGHT	NUMBER	OTHER STANDARDS
COMMERCIAL, MIXED USE AND INSTITUTIONAL DISTRICTS				
Wall sign	1 sf per linear foot of shopfront width up to 40 sf if ground floor or 20 sf if upper floor	Signable area must be between 12 and 36 inches high	1 per establishment	Internally illuminated signs are prohibited. See Paragraph 4.3.6.H(1).
Awning sign	25% coverage if on sloping plane of awning. 75% coverage if on awning valance	n/a	1 per awning mounted over a window or door	See Paragraph 4.3.6.H(2).
Window sign	20% of glass area	n/a	1 per window	See Paragraph 4.3.6.H(3).
Monument sign	24 sf	10 ft	1 per road that the lot has frontage on	Internally illuminated signs are prohibited. Must not be combined with a landscape wall sign. See Paragraph 4.3.6.H(5).
Projecting sign	8 sf	n/a	1 per establishment	Must not be combined with a hanging sign. See Paragraph 4.3.6.H(6).
Hanging sign	6 sf	n/a	1 per establishment	Must not be combined with a projecting sign. See Paragraph 4.3.6.H(7).
Directory sign	6 sf	4 ft if freestanding	1 per entrance	See Paragraph 4.3.6.H(8).
Landscape wall sign	24 sf	4 ft max for wall	1 per road that the lot has frontage on	Internally illuminated signs are prohibited. Must not be combined with a monument sign. See Paragraph 4.3.6.H(9).
COMMERCIAL-INDUSTRIAL AND TOURISM BUSINESS DISTRICTS				
Wall sign	1 sf per linear foot of shopfront width up to 40 sf if ground floor or 20 sf if upper floor	Signable area must be between 12 and 36 inches high	1 per establishment	See Paragraph 4.3.6.H(1).
Awning sign	25% coverage if on sloping plane of awning. 75% coverage if on awning valance	n/a	1 per awning mounted over a window or door	See Paragraph 4.3.6.H(2).
Window sign	20% of glass area	n/a	1 per window	See Paragraph 4.3.6.H(3).
Pole sign	32 sf	15 ft	1 per road that the lot has frontage on	Must not be combined with a monument or landscape wall sign. See Paragraph 4.3.6.H(4).
Monument sign	32 sf	10 ft	1 per road that the lot has frontage on	Must not be combined with a pole or landscape wall sign. See Paragraph 4.3.6.H(5).
Projecting sign	8 sf	n/a	1 per establishment	Must not be combined with a hanging sign. See Paragraph 4.3.6.H(6).
Hanging sign	6 sf	n/a	1 per establishment	Must not be combined with a projecting sign. See Paragraph 4.3.6.H(7).
Directory sign	24 sf	6 ft if freestanding	1 per entrance	See Paragraph 4.3.6.H(8).

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TYPES ALLOWED	MAX AREA	MAX HEIGHT	NUMBER	OTHER STANDARDS
Landscape wall sign	24 sf	4 ft max for wall	1 per road that the lot has frontage on	Must not be combined with a pole or monument sign. See Paragraph 4.3.6.H(9).
RESIDENTIAL 10, RESIDENTIAL 1, RURAL AND CONSERVATION DISTRICTS				
Pole sign	8 sf	6 ft	1 per lot	Internally illuminated signs are prohibited. Must not be combined with a monument or landscape wall sign. See Paragraph 4.3.6.H(4).
Monument sign	12 sf	8 ft	1 per lot	Internally illuminated signs are prohibited. Must not be combined with a pole or landscape wall sign. See Paragraph 4.3.6.H(5).
Directory sign	6 sf	4 ft if freestanding	1 per entrance	See Paragraph 4.3.6.H(8).
Landscape wall sign	16 sf	4 ft max for wall	1 per lot	Internally illuminated signs are prohibited. Must not be combined with a pole or monument sign. See Paragraph 4.3.6.H(9).

4.3.7 SCREENING

4.3.7.A **Purpose.** The provisions of this section are intended to maintain and improve community character and quality of life in Waterbury by:

- (1) Providing a landscaped buffer between incompatible land uses; and
- (2) Screening proposed development and site elements that create visual clutter and distraction.

4.3.7.B **Applicability.** The provisions of this section apply to any development that requires major site plan approval and are minimum requirements for screening. The Development Review Board may require additional screening as deemed necessary to protect the character of the area and mitigate the impact of incompatible land uses.

4.3.7.C **General Standards.** All landscaping required under this section must also conform to the general standards in Subsection 4.3.1.C and the specifications of Figure 4-02.

4.3.7.D **Side and Rear Yards.** Applicants must maintain or establish a vegetated buffer along the side and rear lot lines if the subject lot abuts a single- or two-family residential lot or land in a residential, mixed-use or rural district as follows:

- (1) The buffer must not be less than 8 feet in any dimension.
- (2) The buffer must be landscaped with (see Figure 4-02):
 - (a) Not less than 1.0 equivalent planting unit (EPU) for every 10 feet, if no fence.
 - (b) Not less than 1.0 EPU for every 15 feet, if combined with a fence.
- (3) No buffer will be required between lots under common ownership.

4.3.7.E Utilities and Service Areas. All utility boxes, pump stations, substations, off-street loading areas, trash storage and recycling areas, outdoor storage areas, antennas and satellite dishes, mechanical equipment, and similar above ground utility or service site elements that will be visible from the street or abutting properties must be screened from view with a vegetated buffer as follows:

- (1) The buffer must not be less than 8 feet in any dimension.
- (2) The buffer must be landscaped with (see Figure 4-02):
 - (a) Not less than 1.0 equivalent planting unit (EPU) for every 10 feet, if no fence.
 - (b) Not less than 1.0 EPU for every 15 feet, if combined with a fence.

4.3.7.F Fences. Fences used for screening must conform to Section 4.1.11 and also must:

- (1) Be completely opaque between a height of 1 and 5 feet above the ground;
- (2) Be made of wood, concrete, masonry, stone or metal; and
- (3) Not be made of corrugated or galvanized steel or metal sheets, or be chain link fencing with inserts.

4.3.8 TRASH STORAGE AND RECYCLING AREAS

4.3.8.A General Standards. All proposed development subject to site plan review must provide trash storage and recycling areas as follows:

- (1) Trash storage and recycling areas must be located within the building or inside an enclosure located to the side or rear of the building and outside required setbacks as shown on the approved site plan.
- (2) All outdoor trash and recycling storage and containers must be located on a hard surface (i.e., asphalt or concrete).
- (3) Trash storage and recycling areas must provide adequate space for the maintenance and servicing of containers.
- (4) Enclosures must be at least 5 feet in height and must obscure all materials and/or containers stored inside.
- (5) Enclosures must be constructed of the same exterior materials as the buildings they are intended to serve.
- (6) Any doors or gates to trash storage and recycling areas must remain closed and latched except when being accessed for deposit, maintenance, service or collection.
- (7) Trash and recycling areas must be accessible and convenient for building residents/tenants and for collection vehicles.

4.4 Subdivision Standards

4.4.1 APPLICABILITY

4.4.1.A All subdivision of land must conform to the standards of this chapter.

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4.4.2 SUITABILITY OF THE LAND

4.4.2.A The applicant must demonstrate that the land to be subdivided is suitable for development without:

- (1) Endangering public health or safety; and
- (2) Adversely impacting the environment, adjoining properties or the character of the area as defined by the Municipal Plan and the zoning district in which the proposed project is located.

4.4.2.B Land subject to periodic flooding, poor drainage, erosion, landslide, slope instability, inadequate capability to support development or other hazardous conditions must not be subdivided unless the applicant can demonstrate that appropriate measures will be taken to overcome the physical limitations.

4.4.2.C Grading, excavating and/or filling of land to create developable lots must meet the standards of Section 4.1.12.

4.4.3 PROTECTION OF NATURAL RESOURCES

4.4.3.A The applicant must demonstrate that the proposed subdivision boundaries, lot layout and development envelopes will be located and configured to avoid undue adverse impacts to significant natural resources, wetlands, surface waters, flood hazard areas and their required buffers and setbacks.

4.4.3.B The applicant must demonstrate that the proposed subdivision will not result in undue adverse impacts to water quality or downstream properties, and will not cause undue adverse impacts to soil through erosion or reduction in the capacity of the land to hold water.

4.4.3.C The applicant must demonstrate that the proposed subdivision will be designed with due regard for all natural and cultural features that, if preserved, will increase the attractiveness and value of the subdivision.

4.4.3.D The applicant must demonstrate that the proposed subdivision will not have undue adverse impacts on aesthetics, the scenic or natural beauty of the area, and identified scenic resources or historic sites.

4.4.4 CAPABILITY OF COMMUNITY FACILITIES AND UTILITIES

4.4.4.A The applicant must demonstrate that the proposed subdivision will not cause a disproportionate or unreasonable burden on the community's ability to provide public facilities, services and utilities including:

- (1) School facilities and educational services;
- (2) Police, fire protection and ambulance services;
- (3) Street infrastructure and maintenance;
- (4) Parks and recreation facilities; and
- (5) Water supply, sewage disposal and stormwater systems and infrastructure.

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- 4.4.4.B The Development Review Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board or other municipal officials regarding relevant facilities.

4.4.5 LOT DESIGN AND CONFIGURATION

4.4.5.A **Lot Arrangement.** The applicant must design the subdivision:

- (1) To follow and extend the planned settlement pattern (including lot size, lot configuration, road layout and building location) as defined by the purpose and standards of the applicable zoning district to the maximum extent feasible given the site's topography and natural features;
- (2) To connect to and extend existing road, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site's topography and natural features;
- (3) So that there will be no foreseeable difficulties in obtaining zoning permits to build on all lots in accordance with the standards of these regulations (this will not apply to lots intended for conservation purposes);
- (4) So that there will be no foreseeable difficulties in providing access to each lot from an existing or planned road (this will not apply to lots intended for conservation purposes);
- (5) To minimize the number of new curb cuts along arterial streets or state highways;
- (6) So that there will be positive drainage away from building sites and a coordinated stormwater drainage pattern for the subdivision; and
- (7) To allow further subdivision on any remaining undivided land, lots with further subdivision potential and/or adjoining undeveloped parcels in a manner that would result in a logical and coordinated development pattern.

4.4.5.B **Lot Dimensions.** The applicant must design the subdivision:

- (1) So that all lots front on a road in accordance with the standards of Subsection 3.1.6.E and Section 4.1.2 (this will not apply to lots intended for conservation purposes);
- (2) So that lot dimensions meet the minimum standards for the zoning district;
- (3) So that side lot lines are at right angles to straight roads or radial to curved roads, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (4) So that rear lot lines are parallel to front lot lines, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (5) So that the lot ratio (width-to-depth or depth-to-width) does not exceed 1:5, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (6) To avoid flag and other irregularly shaped lots, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (7) To minimize the number of lots with frontage on more than one road; and

- (8) To minimize the number of lots with a rear lot line that abuts the side lot line of an adjacent lot.

4.4.6 DESIGN AND LAYOUT OF NECESSARY IMPROVEMENTS

4.4.6.A Roads. Applicants must design and construct all new or extended roads within a subdivision in accordance with this subsection.

- (1) **Applicability.** Any vehicular way that will be used to provide access to more than 3 lots or principal buildings will be considered a road and must conform to the standards of this section irrespective of whether the road will be public or private.
- (2) **Public Works Specifications.** Applicants must construct new or extended roads in accordance with any public works specifications duly adopted by Waterbury. In the case of a conflict between a provision of these regulations and a provision of the public works specifications, the public works specifications will take precedence.
- (3) **Technical Review.** The Zoning Administrator will forward all applications for new or extended roads to the Department of Public Works for review and comment upon receipt of a complete application. The Development Review Board may require engineering plans to be reviewed by a qualified professional in accordance with Section 2.2.3.
- (4) **General Standards.** Applicants must design and construct all new or extended roads within a subdivision to:
 - (a) Safely accommodate all users (including vehicular, bicycle and pedestrian traffic);
 - (b) Calm traffic and discourage travel speeds in excess of the posted speed limit;
 - (c) Avoid congestion on existing roads;
 - (d) Provide adequate access and suitable turnarounds, when applicable, for emergency and service vehicles;
 - (e) Logically extend and improve the connectivity of Waterbury's existing road network;
 - (f) Extended to the boundary lines of the parcel(s) being subdivided to facilitate the coordinated subdivision of adjacent land and connectivity of Waterbury's road network unless otherwise approved by the Development Review Board upon the applicant demonstrating that it would not be feasible due to pre-existing development patterns on adjacent land, topography or other physical conditions on the property;
 - (g) Provide efficient access to property;
 - (h) Minimize the amount of impervious surface necessary to provide convenient and safe access to property;
 - (i) Be graded and laid out to conform as closely as possible to the pre-existing topography;
 - (j) Provide adequate drainage;
 - (k) Be located the maximum distance feasible from surface waters (at least 150 feet is preferred and additional stormwater management practices may be required if that separation distance cannot be achieved) and meet the riparian buffer

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- standards of Section 4.1.14 as applicable; and
- (l) Minimize the number of stream crossings.
- (5) **Connectivity.** New cul-de-sac or dead-end roads will only be approved if the applicant demonstrates that one of the following applies:
 - (a) The proposed road includes a stub to be extended or interconnected when adjacent property is subdivided or developed;
 - (b) Pre-existing development patterns on adjacent property, topography or other physical conditions make construction of a through road impractical or undesirable; or
 - (c) The proposed road will serve not more than 6 lots or principal buildings.
- (6) **Access Management.** Applicants must implement proper access management techniques in the design of new or extended roads and driveways. Intersections and curb cuts must be designed to:
 - (a) Have sight distances that are not less than 150 feet unless otherwise recommended by the Department of Public Works;
 - (b) Restrict access to the permitted location and prevent uncontrolled access along the property frontage;
 - (c) Facilitate the movement of vehicles off the road and to prevent vehicles from queuing on the street;
 - (d) Not require backing maneuvers within the road right-of-way;
 - (e) Provide facilities for safe crossing and use by pedestrians and bicyclists, including meeting Americans with Disabilities Act standards;
 - (f) Not cause water to enter onto intersecting roads;
 - (g) Not interfere with the drainage system of any intersecting roads; and
 - (h) Meet the standards of Section 4.1.2 and Section 4.1.6 as applicable.
- (7) **Access Points.** A subdivision with more than 24 lots or principal buildings must have at least two access points from public roads. The Development Review Board may:
 - (a) Waive or modify this requirement as recommended by the Department of Public Works for sites with physical conditions that make provision of a second access impractical or undesirable; and/or
 - (b) Allow the secondary access to be gated and limited to emergency access.
- (8) **Design Speed.** Applicants must design new or extended roads for a speed of 25 miles per hour or less.
- (9) **Right-of-Way.** A new or extended road must:
 - (a) Have a right-of-way at least 60 feet in width if intended to accommodate on-street parking;
 - (b) Have a right-of-way at least 50 feet in width if not intended to accommodate on-street parking; and
 - (c) Be located in the center of the right-of-way.

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- (10) **Travel Lane Width.** Applicants must design new or extended roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
 - (a) For roads with a traffic volume of not more than 120 trips per day on average (equivalent to 12 dwelling units), lane widths must be at least 8 feet and not more than 9 feet; or
 - (b) For roads with a traffic volume in excess of 120 trips per day on average, lane widths must be at least 9 feet and not more than 10 feet with 2-foot shoulders or parking lanes on both sides.
- (11) **Parking Lane Width.** Parking lanes must be at least 8 feet and not more than 9 feet wide.
- (12) **Intersections.** Applicants must design new or extended roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
 - (a) To intersect as close to 90 degrees as physically possible and not at less than 75 degrees or more than 105 degrees;
 - (b) With directly opposed intersections whenever feasible (if not directly opposed, the centerline offset of the intersections must be at least 125 feet);
 - (c) With an intersection approach that does not exceed a +/- 3% average grade for a distance of 20 feet as measured from the edge of the right-of-way of the intersecting road; and
 - (d) With a curb radius at the intersection that does not exceed 20 feet as measured from the edge of the traveled way, except that the Development Review Board may approve a curb radius of up to 30 feet for roads designed to accommodate significant truck traffic.
- (13) **Drainage.** Applicants must design new or extended roads:
 - (a) With stormwater practices consistent with the most current edition of the *Vermont Stormwater Management Manual Rule and Design Guidance* and green stormwater practices to the maximum extent feasible given the physical characteristics of the property (ex., soils and slopes);
 - (b) To not block or restrict the flow of drainage in existing ditches, swales or gutters;
 - (c) To not contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure;
 - (d) With culverts that are sized to convey anticipated peaks stormwater flows; and
 - (e) With culverts that are installed to minimize erosion damage at the inlet and outlet.
- (14) **Grade.** New or extended roads must generally conform to the topography and must not exceed a maximum grade of 10% as measured over any 100-foot section. The Development Review Board may allow segments less than 100 linear feet in length to exceed the maximum grade to respond to the site's topography and natural features when recommended by the Department of Public Works.
- (15) **Cross-Slope.** All new or extended roads must have a cross-slope of at least 1% and not more than 3%.

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- (16) **Road Names and Signs.** The applicant must name new or extended road and install street signs in accordance with state and municipal requirements.

4.4.6.B Pedestrian and Bicycle Facilities. The applicant must integrate pedestrian and bicycle access into the design of the subdivision in accordance with the following:

- (1) **Public Sidewalks.**
 - (a) The applicant must install sidewalks:
 - (i) Along both sides of a new road that intersects with a road with sidewalks or an extended road that has sidewalks on the existing portion;
 - (ii) Within a subdivision with more than 24 lots or principal buildings; and
 - (iii) Along any new, extended or existing road where sidewalks are planned as specified in the Waterbury Municipal Plan, municipal bicycle and pedestrian or streetscape improvement plan, or duly adopted official map.
 - (b) The Development Review Board may allow sidewalks to be constructed only on one side of the road or allow a shared use path to be substituted for the sidewalk within a subdivision with an average lot size greater than ½ acre.
- (2) **Internal Walkways.** The applicant must install internal walkways as necessary to provide access within the subdivision to common lands or facilities, parking areas or similar amenities, as well as between buildings and the roads.
- (3) **Sidewalk Design and Construction.** Sidewalks must:
 - (a) Be at least 5 feet wide;
 - (b) Be surfaced with concrete;
 - (c) Meet Americans with Disabilities Act standards, including provision of curb ramps with a tactile warning surface;
 - (d) Be separated from the road either vertically with at least a 6-inch curb or horizontally with at least a 5-foot tree belt;
 - (e) Terminate at a crosswalk when there is a connecting sidewalk on the other side of the road.
- (4) **Shared Use Path Design and Construction.** Shared use paths must:
 - (a) Be at least 10 feet wide;
 - (b) Be hard surfaced (this does not include compacted dirt, gravel, crushed stone, etc.);
 - (c) Meet Americans with Disabilities Act standards;
 - (d) Be horizontally separated from the street with at a least an 8-foot tree belt; and
 - (e) Terminate at a crosswalk when there is a connecting path or sidewalk on the other side of the road.

4.4.6.C Street Trees. The applicant must install street trees in accordance with Subsection 4.3.1.E.

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4.4.6.D Water and Wastewater Facilities. The applicant must:

- (1) Provide potable water and wastewater facilities to each lot within the subdivision in accordance with state and municipal specifications; and
- (2) Connect each lot within any subdivision located within water or sewer service areas to Waterbury's water or sewer systems.

4.4.6.E Firefighting Facilities. The applicant must provide water for fire protection.

4.4.6.F Public and Private Utilities. The applicant must design the subdivision to provide utility service to each lot in accordance with the following:

- (1) All utilities must be located underground unless otherwise approved by the Development Review Board due to physical conditions such as ledge or wetlands that make burying lines impractical.
- (2) Utilities must be located within road rights-of-way to the maximum extent feasible.
- (3) The applicant must provide Waterbury with a maintenance and access easement for any utilities not located within a public right-of-way.

4.4.6.G Erosion Control. The applicant must design and undertake construction within the subdivision in accordance with the standards of Section 4.1.10.

4.4.6.H Soil Preservation. The applicant must:

- (1) Stockpile any topsoil removed during the course of construction on-site;
- (2) Redistribute stockpiled topsoil to provide even cover on all disturbed areas to be seeded or planted;
- (3) Make reasonable efforts to repair any soil compaction prior to seeding or planting such as tilling, subsoiling, plug aeration and/or organic amendments; and
- (4) Not remove any topsoil, sand, gravel, rock or other earth resources from the site for any purpose other than the minimum necessary and authorized to meet the construction needs of the subdivision.

4.4.6.I Debris Removal. The applicant must remove any debris generated during the course of construction from the site in accordance with state regulations. Burying debris on-site or using it as fill is prohibited.

4.4.6.J Stormwater Management. The applicant must design the subdivision or development with adequate drainage and stormwater infrastructure in accordance with Section 4.1.16.

4.4.6.K Monuments and Lot Corner Markers. The applicant must install:

- (1) Permanent right-of-way monuments at all road intersections and other critical points in street lines in accordance with state statute.
- (2) Lot corner markers at corners and angle points of all lots in accordance with state statute.

4.4.6.L Construction and Maintenance of Necessary Improvements. The applicant must:

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- (1) Construct the necessary improvements in accordance with all conditions of approval under these regulations and Waterbury's public works specifications before the Zoning Administrator may issue any zoning permits for further development within the subdivision.
- (2) Maintain necessary improvements while lots or units within the subdivision are being sold and/or developed in accordance with all conditions of approval.
- (3) Demonstrate how the necessary improvements required under this section will be maintained once lots or units have been sold and/or developed.
- (4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private roads, shared infrastructure, or other common land or facilities within the subdivision. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements or other legal documents for review prior to final approval of the subdivision and to record such documents along with the final plat.

4.5 Planned Unit Development (PUD) Standards

4.5.1 APPLICABILITY

- 4.5.1.A Applicants may propose development that deviates from the standards of the base zoning district(s) in accordance with the provisions of this chapter.

4.5.2 CONSERVATION SUBDIVISION

- 4.5.2.A **Purpose.** The purpose of this section is to provide flexibility in site design for rural residential subdivisions in order to preserve natural resources, open space and scenic character.
- 4.5.2.B **Applicability.** Conservation subdivisions are allowed in the Residential 1, Rural and Conservation zoning districts when developing a site that is not less than 3 acres with not less than three lots or dwelling units.
- 4.5.2.C **Transfer of Development Rights.** Conservation subdivisions may be used to transfer development rights from one parcel to another within a zoning district or from a lower density district to a higher density district. Land from which development rights are transferred must be set aside as a conservation area in accordance with Paragraph G, below.
- 4.5.2.D **Density.** The density of a conservation subdivision must not exceed the maximum density as determined based on the applicable zoning district standards (total lot area divided by the residential density).
- 4.5.2.E **Dimensional Standards.** The following will apply to conservation subdivisions:
- (1) The development must meet all setback requirements of the applicable zoning district around the perimeter of the development site;
 - (2) The dimensional standards for lots, setbacks and buildings in the applicable zoning district will not apply internally within the development site; and
 - (3) The lot coverage for the development as a whole must not exceed 10%.

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4.5.2.F **Use.** All residential uses allowed (permitted or conditional) within the applicable zoning district will be a permitted use within a conservation subdivision.

4.5.2.G **Conservation Areas.** A minimum of 50% of the total area of the conservation subdivision must be set aside as conservation areas in accordance with the following:

- (1) The following will be considered primary conservation resources and must be included in the conservation area:
 - (a) Wetlands and buffers;
 - (b) Mapped flood hazard and river corridor areas;
 - (c) Land above 1,500 feet in elevation; and
 - (d) Severely steep slopes (25% or greater);
- (2) The following will be considered secondary conservation resources and must be included in the conservation area to the maximum extent feasible:
 - (a) Primary agricultural soils;
 - (b) Riparian buffers (see Section 4.1.14);
 - (c) Mapped wildlife corridors;
 - (d) Highest priority forest blocks;
 - (e) Land between 1,200 feet and 1,500 feet in elevation; and
 - (f) Moderately steep slopes (15% to <25%).
- (3) Conservation areas must abut existing conservation areas, parks, open space or farmland on adjacent parcels to the maximum extent feasible.
- (4) Conservation areas must be designated as permanent open space, not to be further developed, and protected through a conservation easement that prohibits further development in the conservation areas and may establish other standards to safeguard or maintain the conservation resources.
- (5) Conservation areas must not be cleared, graded, filled or subject to construction except as follows and in accordance the terms of the easement:
 - (a) The Development Review Board may allow roads and above ground utilities to cross conservation areas when reasonable access cannot otherwise be provided to the portions of the site to be developed provided that disturbance of the conservation area will be the minimum necessary to provide adequate access;
 - (b) Underground utilities may be located within conservation areas provided that the Development Review Board finds that such development will not adversely impact the conservation resources intended to be protected by inclusion in a conservation area;
 - (c) Community gardens, trails and passive recreation amenities may be developed within conservation areas;
 - (d) Green stormwater and renewable energy infrastructure serving the development may be allowed within conservation areas; and
 - (e) Required agricultural practices and construction of farm structures may be allowed within conservation areas intended for agricultural use.

- 4.5.2.H **Development Areas.** A maximum of 50% of the total area of the conservation subdivision may be developed for residential use in accordance with the following:
- (1) The development must be designed as one or more clusters composed of 3 to 18 lots or dwelling units separated by open space;
 - (2) All lots or dwelling units must have direct pedestrian access to conservation area(s) intended to accommodate passive recreational use from a continuous system of sidewalks, paths or trails;
 - (3) Access to the conservation subdivision must be from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or to minimize disturbance of conservation resources; and
 - (4) All reasonable measures must be taken to minimize the amount of impervious surface associated with vehicular access and parking (such as shared driveways, narrow lanes, and locating development near existing roads).
- 4.5.2.I **Community Buildings.** A conservation subdivision may include one or more community buildings that would serve residents by providing amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, daycare, guest quarters or storage. The subdivision residents must commonly own any community building.

4.5.3 CLUSTER HOUSING

- 4.5.3.A **Purpose.** The purpose of this section is to address the need for smaller and more affordable housing choices in response to changing household demographics and living preferences. The intent is to encourage development of pocket neighborhoods composed of small footprint, detached homes sited around common open space.
- 4.5.3.B **Applicability.** Cluster housing is permitted in the Residential 1 , Residential 5 and Residential 10 zoning district when developing not less than 3 lots or dwelling units.
- 4.5.3.C **Density.** The maximum density for cluster housing will be 125% of the maximum allowed in the zoning district for market rate housing and 150% of the maximum allowed in the zoning district for affordable housing as defined in Paragraph 5.1.3.A(3).
- 4.5.3.D **Dimensional Standards.** The following will apply to cluster housing:
- (1) The development must meet all setback requirements of the applicable zoning district around the perimeter of the development site;
 - (2) The dimensional standards for lots, setbacks and buildings in the applicable zoning district will not apply internally within the development site; and
 - (3) The lot coverage for the development as a whole must not exceed 60%.
- 4.5.3.E **Use.** Nonresidential principal uses are prohibited within a cluster housing development.
- 4.5.3.F **Cluster Size.** Cluster housing must consist of at least 3 and not more than 18 principal buildings arranged around a common open space.
- 4.5.3.G **Number of Clusters.** Multiple clusters may be located on a single site provided that they are separated by a landscaped buffer not less than 40 feet in any dimension.

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4.5.3.H Dwelling Unit Standards. Cluster housing may consist of any combination of:

- (1) Single- or two-family detached dwellings that:
 - (a) Have a footprint of not more than 1,200 square feet if single-family or 1,600 square feet if two-family (attached garages will be included in the footprint calculation);
 - (b) Are not more than 24 feet in height and have all portions of the building more than 18 feet above ground within the roof pitch;
 - (c) Have at least 400 square feet of private, contiguous, usable yard area abutting the building with no dimension less than 10 feet; and
 - (d) Meet the minimum requirements for a dwelling unit of Section 4.1.8.
- (2) Three- or four- unit residential buildings that:
 - (a) Have a footprint of not more than 4,800 square feet (attached garages will be included in the footprint calculation);
 - (b) Are not more than 36 feet in height and are designed with a pitched roof;
 - (c) Have facades that are broken up with changes in wall plane not less than 4 feet deep so that no continuous wall plane exceeds 40 feet in length;
 - (d) Have at least 60 square feet of private outdoor space per unit (yard, porch, patio, balcony, etc.); and
 - (e) Meet the minimum requirements for a dwelling unit of Section 4.1.8.
- (3) Multi-family residential buildings that:
 - (a) Have a footprint of not more than 6,000 square feet;
 - (b) Are not more than 36 feet in height and are designed with a pitched roof;
 - (c) Have facades that are broken up with changes in wall plane not less than 4 feet deep so that no continuous wall plane exceeds 40 feet in length; and
 - (d) Meet the minimum requirements of Section 4.2.1.

4.5.3.I Common Open Space. Cluster housing must be arranged around a common open space in accordance with the following:

- (1) A minimum of 400 square feet of common open space suitable for community gardens and/or passive outdoor recreation is required per dwelling unit;
- (2) The common open space must have homes abutting on at least two sides;
- (3) Each dwelling unit must face and have direct access to the common open space (the building must not be separated from the open space by a street or driveway);
- (4) The common open space must be landscaped and must not be used for parking, utilities, trash collection or other service functions; and
- (5) Green stormwater and renewable energy infrastructure serving the development may be located within the common open space provided that such functions will not prevent residents from using the common open space for passive recreation.

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4.5.3.J **Accessory Structures.** Private garages, carports, sheds or similar accessory structures must have a footprint of not more than 480 square feet and a height of not more than 18 feet. Shared or common accessory structures must have a footprint of not more than 1,200 square feet and a height of not more than 24 feet.

4.5.3.K **Community Buildings.** The development may include one or more community buildings that are clearly incidental to the homes and that would serve residents by providing amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, daycare, guest quarters or storage. A community building must be:

- (1) Commonly-owned by the residents; and
- (2) Compatible in scale, design and height to the homes.

4.5.3.L **Vehicular Access and Parking.** The development must provide vehicular access and parking in accordance with the following:

- (1) Vehicular access and on-site parking will not be required to each dwelling or on each lot if the development provides common off-street parking areas or structures with pedestrian walkways connecting the parking and the dwellings;
- (2) Vehicular access and parking must not be located within front yards, the common open space, or between dwellings and the common open space;
- (3) Vehicular access and parking must be located around the perimeter of the housing cluster to the maximum extent feasible; and
- (4) Vehicular access and parking must meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.

4.5.4 CAMPUS DEVELOPMENT

4.5.4.A **Purpose.** The purpose of this section is to provide flexibility in site design to accommodate the particular needs of multi-lot, multi-building and/or multi-use sites.

4.5.4.B **Applicability.** Campus developments are permitted in the Institutional, Commercial-Industrial and Tourism Business districts on development sites not less than 3 acres in size to be developed with not less than 3 lots or principal buildings. For the purposes of this section, a campus is a self-contained development that includes multiple buildings and/or lots that:

- (1) Are commonly owned and/or managed;
- (2) Are located in proximity to and related to one another;
- (3) Share common facilities, amenities and/or infrastructure; and
- (4) Are connected with pedestrian walkways.

4.5.4.C **Dimensional Standards.** The following will apply to campus developments:

- (1) The development must meet all setback requirements of the applicable zoning district around the perimeter of the campus;
- (2) The dimensional standards for lots, setbacks and buildings in the applicable zoning district will not apply internally within the campus; and
- (3) The lot coverage for the campus as a whole must not exceed 70%.

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- 4.5.4.D **Residential Density.** There will be no maximum residential density within a campus development provided that residential use is allowed in the applicable zoning district. Multi-family residential development within a campus must conform to the standards of Section 4.2.1.
- 4.5.4.E **Use.** The uses allowed within a campus development will be as established in the base zoning district and as follows:
- (1) Any institutional, office, light industrial or residential use (permitted or conditional) allowed in the applicable zoning district will be allowed in a campus development as a permitted use;
 - (2) Retail uses must not occupy more than 40% of the total floor area within the campus; and
 - (3) The Development Review Board may approve non-residential uses not otherwise allowed in the applicable zoning district within a campus development as a conditional use and upon determining that:
 - (a) Such uses are incidental to or supportive of the principal purpose of the campus; and
 - (b) Such uses will not exceed 20% of the total floor area within the campus.
- 4.5.4.F **Common Open Space.** At least 20% of the total lot area of the campus must be reserved as common open space in accordance with the following:
- (1) A common open space must not be less than 20 feet in any dimension;
 - (2) A common open space must be landscaped and designed with amenities that will make the space suitable for passive recreational use or community gardening;
 - (3) Outdoor areas developed for active recreation use (ex. sports courts or fields) must not be included in the calculation of common open space;
 - (4) A common open space must not be used for parking, utilities, trash collection or other service functions; and
 - (5) Green stormwater and renewable energy infrastructure serving the campus may be located within a common open space provided that such functions will not prevent the space from being used for passive recreation.
- 4.5.4.G **Pedestrian Access.** All principal buildings within a campus must be connected with a system of sidewalks or multi-use paths. The Development Review Board may require the applicant to extend sidewalks along nearby public roads into the campus.
- 4.5.4.H **Vehicular Access and Parking.** The campus must provide vehicular access and parking in accordance with the following:
- (1) Vehicular access and on-site parking will not be required to each principal building or on each lot if the campus provides common off-street parking areas or structures with pedestrian walkways connecting the parking and the buildings served;
 - (2) Vehicular access and surface parking must be located around the perimeter of the campus to the maximum extent feasible; and

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- (3) Vehicular access and parking must meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.
- 4.5.4.I **Signs.** The campus must have an approved common scheme signage plan in accordance with Paragraph 4.3.6.F(1) and the following:
 - (1) The campus may have an entrance sign not more than 48 square feet in area and 16 feet in height at its principal road entrance;
 - (2) Any secondary entrance may have a sign that is not more than 32 square feet in area and 12 feet in height; and
 - (3) All other signage must be designed and located so as to be primarily visible from within the campus.

5 DEFINITIONS

5.1.1 GENERAL

- 5.1.1.A The words used in these regulations have their normal dictionary meaning unless they are specifically defined in these regulations.
- 5.1.1.B The words defined in these regulations have the specific meaning stated unless the context clearly indicates that they have another meaning.
- 5.1.1.C The definitions identified as being from state statute or regulation are intended to be consistent with that statute or regulation.
- 5.1.1.D These regulations use:
- (1) “Must” and “will” to express that something is required;
 - (2) “Must not” and “will not” to express that something is prohibited;
 - (3) “May” and “may not” for discretionary actions; and
 - (4) “Should” and “should not” when something is encouraged or discouraged.
- 5.1.1.E These regulations use:
- (1) “Parcel” and “lot” interchangeably to refer to areas of land delineated in a recorded subdivision plat or deed;
 - (2) “Site” or “property” to refer to an area of land subject to a development project, regardless of whether it is an entire parcel, a portion of a parcel, or multiple parcels;
 - (3) “Property owner”, “landowner”, “applicant” and “developer” to refer to the party responsible or authorized to act under these regulations and those terms may include any individual designated to act on behalf of the responsible party;
 - (4) “Business” to refer generally to any nonresidential land use, regardless of whether it is a for-profit or non-profit enterprise; and
 - (5) “Home”, “residence”, “dwelling” to refer to a dwelling unit that is intended for occupancy by a single household regardless of structure type or tenure (owned or rented).
- 5.1.1.F Unless specifically stated otherwise, the calculation of time periods defined in these regulations:
- (1) As a specific number of days will be based on calendar days;
 - (2) As a specific number of months will be based on calendar months (ex. January 1 to June 1 is 6 months);
 - (3) As a specific number of years will be based on calendar years (ex. January 1 to January 1 is one year); and
 - (4) Will not include the first day (i.e., the day an application was submitted or a permit issued) but will count the final day (i.e., the day a hearing was held or a permit took effect).

5.1.2 USE AND DIMENSIONAL STANDARDS

5.1.2.A All uses allowed in one or more zoning districts are defined in Section 3.3.1.

5.1.2.B Dimensional standards and their method of measurement are defined in Section 3.1.6.

5.1.3 DEFINED TERMS

5.1.3.A

- (1) **ADJACENT** means a land parcel, area, or district that shares a boundary with, or that is directly across a public road or right-of-way from, another parcel, area, or district.
- (2) **ADMINISTRATOR** means the Federal Insurance Administrator.
- (3) **AFFORDABLE HOUSING** as defined in state statute means:
 - (a) Ownership housing with a total housing cost (principal, interest, taxes, insurance and condominium association fees) that does not exceed 30% of the gross annual income of a household earning up to 120% of the median income in Washington County or Vermont, whichever is greater; or
 - (b) Rental housing with a total housing cost (rent, utilities and condominium association fees) that does not exceed 30% of the gross annual income of a household earning up to 80% of the median income in Washington County or Vermont, whichever is greater; and
 - (c) That is subject to covenants or restrictions that will preserve that affordability for at least 15 years.
- (4) **APPURTENANT STRUCTURE:** For purposes of Section 3.4.3, the Flood Hazard Area Regulations and Overlay District, “appurtenant structure” means a structure which is on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. (Interim Flood Hazard Area Regulations, 5-21-12)
- (5) **AREA OF SHALLOW FLOODING:** A designated AO or AH zone on Waterbury's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (6) **AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within Waterbury subject to a 1 percent or greater chance of flooding in any given year. This area is labeled Zone A, AO, AH, AE, or A1 – A30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base Flood Elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base Flood Elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where Floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps. For purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, the term “Special Flood Hazard Area” is synonymous in meaning with the phrase “Area of Special Flood Hazard.”

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5.1.3.B

- (1) **BASE FLOOD:** The flood having a 1 percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).
- (2) **BASE FLOOD ELEVATION (BFE):** The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map, the elevation of the base flood is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.
- (3) **BASEMENT:** An area of a building that is partly underground or has its floor below ground level on all sides. A basement shall be counted as a story if the vertical distance between the basement ceiling and average grade level of the adjoining ground is more than six (6) feet. For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, “basement” refers to any area of a building having its floor sub-grade (below ground level) on all sides.
- (4) **BEDROOM** as defined by state regulation means a room located within a dwelling that the residents use primarily as private sleeping quarters or that was designed for such use, and has at least one window, one closet, one interior door that allows the room to be closed off from the remainder of the dwelling, and a floor area of at least 80 square feet.
- (5) **BLIGHTED STRUCTURE** means a structure or portion of a structure that exhibits objectively determinable signs of deterioration sufficient to constitute a threat to public health, safety and welfare.
- (6) **BUILDING** means any structure having a roof supported by columns or walls and intended for the shelter above ground or enclosure of persons, animals, activity, equipment, goods, or materials of any kind.
- (7) **BUILDING, ACCESSORY** means a building that is clearly and customarily incidental and subordinate to the principal building on the lot.
- (8) **BUILDING, PRINCIPAL** means the main or predominate building in which the principal use on the lot is located.
- (9) **BUILDING FRONT LINE** means an imaginary line that is parallel to the front lot line and that transects the point in the building face that is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but not steps.

5.1.3.C

- (1) **CAMP** means a seasonal dwelling unit of 800 square feet or less that is occupied for not more than a total of five months in any calendar year and that is not connected to public utility services.
- (2) **CAMPING UNIT** means any tent, trailer, recreational vehicle, cabin, lean-to or similar structure established or maintained and operated as temporary living quarters for recreation, education, or vacation purposes. Such units are not permitted as year-round dwellings.

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- (3) **CRITICAL FACILITIES:** For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, "critical facilities" include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster.

5.1.3.D

- (1) **DEMOLITION** means the destruction and physical removal of a structure or portion of a structure from a lot.
- (2) **DEVELOPMENT (or LAND DEVELOPMENT) means:**
 - (a) 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.
 - (b) For the purposes of Section 3.4.3, the Flood Hazard Area Regulations, "development" refers to any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (3) **DRIVEWAY** means a vehicular travel way that provides access to not more than 2 lots or principal uses.
- (4) **DWELLING UNIT** means a building or part of a building intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and meets the minimum requirements of Section 4.1.8.
- (5) **DWELLING UNIT, ACCESSORY** means a secondary dwelling established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or within an accessory structure on the same lot. See Section 4.2.2.

5.1.3.E

- (1) **ESSENTIAL SERVICES** means the infrastructure that is necessary to provide or distribute a utility service such as electricity, gas, telephone, cable, water or sewer to customers.
- (2) **EXISTING MANUFACTURED-HOME PARK OR MANUFACTURED-HOME SUBDIVISION:** A manufactured-home park or manufactured-home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (3) **EXPANSION TO AN EXISTING MANUFACTURED-HOME PARK OR MANUFACTURED-HOME SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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5.1.3.F

- (1) **FACADE** means the exterior wall surface of a building facing onto a street or other public space.
- (2) **FEDERAL INSURANCE ADMINISTRATION (FIA)**: Agency that administers the National Flood Insurance Program.
- (3) **FILL**: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site. The placement of material in basements for structures with a footprint of 5,000 sq. ft. or less shall not be defined as fill.
- (4) **FLOOD**: (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding.
- (5) **FLOOD INSURANCE RATE MAPS (FIRM)**: An official map of a community, on which the Federal Insurance Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (6) **FLOOD INSURANCE STUDY (FIS)**: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- (7) **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.
- (8) **FLOODWAY, REGULATORY IN WATERBURY, VERMONT**: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- (9) **FLOODPLAIN OR FLOOD-PRONE AREA**: Any land area susceptible to being inundated by water from any source (see *Flood*).
- (10) **FLOOR AREA** means the sum of the gross horizontal area of the floors of a building, excluding basement floor areas except when used or intended to be used for human habitation or public service. All dimensions shall be measured between interior faces of walls.
- (11) **FOOTPRINT** means the area encompassed by a building's exterior walls at ground level.

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- (12) **FRANCHISE OR CORPORATE DESIGN** means a standardized design that is trademarked or identified with a particular franchise or corporation and that is replicated in multiple locations with minimal variation.
- (13) **FRANCHISE OR CORPORATE IDENTIFICATION ELEMENTS** means the visual elements that are trademarked or identified with a particular franchise or corporation and that are used in various applications to identify or promote that franchise or corporation including, but not limited to: logos, wordmarks, symbols, graphics, images, color palettes, typefaces, or typographic treatments.

5.1.3.G

- (1) **GLARE** means light entering the eye directly from a light source or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.
- (2) **GRADE, EXISTING:** Surface elevation prior to any development or pre-development site preparation.
- (3) **GRADE, FINISHED:** Surface elevations of grounds, lawns, walks, paved areas, and roads brought to elevation as shown on plans relating thereto.

5.1.3.H

- (1) **HANDICAP OR DISABILITY** as defined in state statute means a physical or mental impairment that limits one or more major life activities. This definition specifically excludes a person who is an alcoholic or drug abuser and who constitutes a direct threat to property or the safety of others due to current alcohol or drug use.
- (2) **HAZARDOUS MATERIAL** means any substance or material that by reason of its form, quantity, toxic, caustic, corrosive, abrasive or otherwise injurious properties may pose a risk to health, safety or property including, but not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, compressed gasses, or any substance defined by the state or federal government as a hazardous material.
- (3) **HAZARDOUS WASTE** as defined in state statute means any waste or combination of wastes of a solid, liquid, contained gaseous or semi-solid form, including, but not limited to, those which are toxic, corrosive, ignitable, reactive, strong sensitizers or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state.
- (4) **HISTORIC STRUCTURE OR SITE:** Any structure or site that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily

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determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (i) by an approved state program as determined by the Secretary of the Interior, or (ii) directly by the Secretary of the Interior in states without approved programs.

- (5) **HOUSEHOLD** means one or more people living together in a dwelling unit with common use of the property, including all of the living and cooking facilities.

5.1.3.I

- (1) **IMPERVIOUS SURFACE** means a surface composed of a material that impedes or prevents the natural infiltration of water into the soil including, but not limited to, rooftops, parking lots, streets, driveways, sidewalks, walkways, patios and similar hard-surfaced areas whether constructed of concrete, asphalt, stone, brick, gravel, compacted earth or similar materials. This definition excludes hard surfaces and materials used as a green stormwater infrastructure practice that are specifically designed, constructed and maintained to be pervious.
- (2) **IN KIND REPLACEMENT** means a replacement material or component that is:
- (a) Substantially the same type, design, dimension, texture and detailing as the original;
 - (b) Identical in exterior appearance to the original; and
 - (c) At least as durable or strong as the original.
- (3) **INTERESTED PERSON** as defined in state statute means:
- (a) The applicant;
 - (b) Waterbury or any adjoining municipality;
 - (c) A person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on his or her property, and who alleges that a decision made under these regulations is not or will not be in accord with the Waterbury Municipal Plan or these regulations.
 - (d) Any 10 people, who may be any combination of Waterbury voters or landowners, who allege that a decision or act made under these regulations is not or will not be in accord with the Waterbury Municipal Plan or these regulations by a signed petition. The petition must designate one person to serve as the group's representative.
 - (e) Any department and administrative subdivision of the state owning property or any interest in property in Waterbury; or
 - (f) The Vermont Agency of Commerce and Community Development.

5.1.3.J

- (1) **JUNK YARD:** Any place of outdoor storage, including open-air structures, that is visible from a public or private road, and is used for:
- (a) collecting or storing, whether in connection with a business or not, more than

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1000 lb. of waste or discarded materials, including but not limited to one or more of the following items: paper, rags, glass, wood, or metals; or

- (b) collecting or storing two or more unregistered and uninspected motor vehicles; or
- (c) collecting, wrecking, dismantling, storing, salvaging or selling parts of machinery, equipment, or vehicles.

5.1.3.K

5.1.3.L

- (1) **LIGHT FIXTURE** means a complete lighting assembly, including one or more lamps (bulbs), housing, reflectors, lenses and/or shields, that functions as a single unit and is connected to a single support assembly (ex. pole, standard or mounting bracket) used for illumination, decoration, security and/or advertising.
- (2) **LIGHT FIXTURE, FULLY SHEILDED** means a light fixture constructed, installed and used in such a manner that all light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downward). Spot or flood lamps are fully shielded if they are aimed straight down.
- (3) **LIGHT FIXTURE, PARTIALLY SHEILDED** means a light fixture constructed, installed and used in such a manner that most of the light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downwards). Light is emitted at or above the horizontal direction (outwards or upwards) only from decorative elements or through strongly colored or diffusing materials. Spot or flood lamps are partially shielded if they are aimed no higher than 45° above straight down.
- (4) **LOT** means an area of land with identifiable boundaries and dimensions that is formally described and recorded in the municipal land records and that can be lawfully owned and conveyed separately from any other land.
- (5) **LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, useable 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 Section 44 CFR 60.3 of the National Flood Insurance Program regulations.

5.1.3.M

- (1) **MAJOR RENOVATION** means:
 - (a) Any structural alteration to the foundation, roof, floor, exterior or load-bearing walls of a building;
 - (b) Constructing an addition to increase the floor area of a building; or
 - (c) Extensive alteration of a building in order to significantly change its function and use.

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- (2) **MANUFACTURED HOME:** A structure, transportable in one or more sections, that is built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. Does not include recreational vehicles.
- (3) **MANUFACTURED-HOME PARK OR MANUFACTURED-HOME SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale.
- (4) **MATERIAL CHANGE** means a change in the planned use or development of land or a structure that may have changed the decision made or any conditions placed on the permit if it had been included in the plans as approved.
- (5) **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 Waterbury's Flood Insurance Rate Map are referenced.
- (6) **MINI-STORAGE BUILDING** means a single-story building divided into individual, self-contained units each of which is accessed solely from outside the building and which are intended to be leased to individuals, organizations or businesses for the self-storage of personal property.
- (7) **MINIMALLY VISIBLE:** The character of a view of a development site where the building(s) is/are not or will not be prominent as seen during the daytime and where summer vegetation will screen a minimum of approximately 50 percent of the building façade(s) and related structures on the site, as seen from any vantage point as defined herein.
- (8) **MIXED-USE BUILDING** means a building that includes at least one dwelling unit and one principal nonresidential use.
- (9) **MIXED-USE DEVELOPMENT** means a single development site that includes at least one principal residential building and one principal nonresidential building, or one or more mixed-use buildings. The plan for the site must be unified and coordinated with the uses functionally integrated through shared pedestrian and vehicular access, parking and similar means.
- (10) **MOTOR VEHICLE** means any self-propelled conveyance used to transport people, animals, goods or materials.

5.1.3.N

- (1) **NECESSARY WILDLIFE HABITAT:** as defined in state statute means concentrated wildlife habitat that is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life including breeding and migratory periods.
- (2) **NEW CONSTRUCTION:** For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For all other zoning purposes, "new construction" means structures commenced on or after the effective date of this bylaw.
- (3) **NEW MANUFACTURED-HOME PARK OR MANUFACTURED-HOME SUBDIVISION:** A manufactured-home park or manufactured-home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

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- (4) **NONCONFORMITY** means a lot, structure or use that lawfully existed prior to the adoption or revision of these regulations, but now does not conform to one or more standards of these regulations.
- (5) **NON-SUBSTANTIAL IMPROVEMENT:** For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, any improvement to existing structures that: (a) constitutes development, (b) is not Substantial Improvement, and (c) is not specifically exempted from regulation under Paragraph 3.4.3.D(5), shall be considered Non-substantial Improvement. Non-substantial Improvement includes repairs to damaged portions of buildings that have been flooded that do not result in increased floor area.
- (6) **NORMAL MAINTENANCE AND REPAIR** means the regular upkeep of property to avoid deterioration, fix damage caused by normal wear and tear, and/or replace worn out components in kind, which does not result in a change in the use or dimension of any structure, or in a structural alteration.

5.1.3.O

- (1) **OUTDOOR DISPLAY** means the placement of merchandise, goods, materials, vehicles, or equipment for sale, rental, lease or advertising in an unenclosed area.
- (2) **OUTDOOR RECREATION, ACTIVE** means a recreational activity that:
 - (a) Requires specialized facilities, fields, courts, ranges and/or related structures;
 - (b) Requires use of motorized vehicles; or
 - (c) Has potential adverse off-site impacts (such as noise or light).
- (3) **OUTDOOR RECREATION, PASSIVE** means a recreational activity (such as: trails for walking, biking, cross-country skiing or snowshoeing; sledding; hunting and fishing; rustic picnic areas; wildlife observation; frisbee; kite-flying; etc.) that:
 - (a) Can be conducted in a minimally developed open space;
 - (b) Requires little to no specialized facilities; and
 - (c) Does not have adverse environmental or off-site impacts.
- (4) **OUTDOOR STORAGE** means the keeping of any merchandise, goods, materials, vehicles, equipment, junk or waste in an unenclosed area and in the same place for more than 24 hours.

5.1.3.P

- (1) **PATIO** means a level, hard-surfaced area not covered by a permanent roof and not more than 6 inches above or below grade intended to be used as an outdoor living or dining area or public gathering space.
- (2) **PAVE** means to cover the ground with asphalt, concrete, stones, gravel, brick, tile, wood, compacted earth or other impervious materials used to cover the ground in order to make a firm, level surface.
- (3) **PERMANENT FOUNDATION** means a slab, walls and/or footings constructed of concrete, masonry or similar materials that extend below the frost line and that form a secure, stable base to which a structure may be attached.

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- (4) **PRE-DEVELOPMENT SITE PREPARATION:** Activities including, but not limited to, road and driveway construction, clearing and/or grading for house sites and septic systems, and related work.
- (5) **PUBLIC ART** means a fountain, monument, sculpture, painting, mural or similar art object that is:
 - (a) Visible from public vantage points;
 - (b) Intended for the enjoyment of the general public; and
 - (c) Not designed or located to identify or draw attention to a business and the type of products sold, manufactured or assembled, or the type of services or entertainment offered or available on the premises.

5.1.3.Q

5.1.3.R

- (1) **RECREATIONAL VEHICLE:** A vehicle which is: (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and (iv) designed primarily not for use as a permanent dwelling but as living quarters for recreational, camping, travel, or seasonal use.
- (2) **RIDGELINE:** The uppermost point, section, or crest of a ridge, mountain, hill, or cliff. The ridgeline does not include intermediate terraces and steps along the face of the slope.
- (3) **ROAD** means a vehicular travel way that provides the principal means of access to more than 2 lots or principal uses.
- (4) **ROAD, MAINTAINED** means a road, whether public or private, that is kept open and maintained so as to be safe and suitable for use by a passenger vehicle on a year-round basis. This does not include Class 4 town highways or legal trails.
- (5) **ROAD, PRIVATE** means a road that is not owned by the state or municipality.
- (6) **ROAD, PUBLIC** means a road that is owned by the state or municipality.

5.1.3.S

- (1) **SANDWICH BOARD:** An A-shaped freestanding sign with one or both sides used for advertising.
- (2) **SCENIC VIEW:** A scenic view is a wide angle or panoramic field of sight and may include natural and/or man-made structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object.
- (3) **SIGN** means any device (including but not limited to letters, words, numerals, figures, emblems, symbols, pictures, flags, streamers, balloons, lights, or any part or combination) used for visual communication intended to attract the attention of the public and visible from off the premises. This definition specifically excludes merchandise normally displayed in a storefront window, merchandise displayed or stored outside as approved under these regulations, and public art.
- (4) **SIGN, ABANDONED** means:

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- (a) A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for at least 180 days;
 - (b) A sign whose message pertains to a time, event or purpose that has elapsed or expired in the preceding 7 days; or
 - (c) A sign that has not been maintained in accordance with these regulations.
- (5) **SIGN, ELECTRONIC MESSAGE** means a sign with a fixed or changing message or image shown on an electronic display or video screen and whose message may be changed by electronic means.
- (6) **SIGN, INTERNALLY ILLUMINATED** means a sign with an interior light source that shines through a transparent or translucent surface material.
- (7) **SIGNIFICANT NATURAL RESOURCES:** Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species.
- (8) **SKYLINE:** An outline of a hill or mountain range against the background of the sky as viewed from a vantage point as defined herein.
- (9) **SMART GROWTH PRINCIPLES** as defined in state statute means growth that:
- (a) Maintains the historic development pattern of compact village and urban centers separated by rural countryside;
 - (b) Develops compact mixed-use centers at a scale appropriate for the community and the region;
 - (c) Enables choice in modes of transportation;
 - (d) Protects important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts;
 - (e) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries;
 - (f) Balances growth with the availability of economic and efficient public utilities and services;
 - (g) Supports a diversity of viable businesses in downtowns and villages;
 - (h) Provides for housing that meets the needs of a diversity of social and income groups in each community; and
 - (i) Reflects a settlement pattern that, at full build-out, is not characterized by:
 - (i) Scattered development located outside compact urban and village centers that is excessively land consumptive;
 - (ii) Development that limits transportation options, especially for pedestrians;
 - (iii) The fragmentation of farmland and forestland;
 - (iv) Development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a

manner that would extend service to lands located outside compact village and urban centers; and

- (v) Linear development along well-traveled roads and highways that lacks depth, as measured from the highway.
- (10) **SPECIAL FLOOD HAZARD AREA:** See *Area of Special Flood Hazard*.
- (11) **START OF CONSTRUCTION:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within two years of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, "start of construction" does not include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.
- (12) **STREET, ARTERIAL** means a Class 1 or Class 2 town highway as shown on the most recent Vermont Agency of Transportation General Highway Map for Waterbury.
- (13) **STREET LINE:** Right-of-way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center line of the street pavement.
- (14) **STRUCTURAL ALTERATION** means a change in the dimension or configuration of a structure's roof, or any exterior walls or other supporting members, including but not limited to, any change in the dimension, location or number of windows or doors
- (15) **STRUCTURE** means:
 - (a) An assembly of materials above, on, or below ground for occupancy or use including, but not limited to, a building, manufactured home or trailer, sign, wall, or fence; or
 - (b) For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. (Interim Flood Hazard Area Regulations, 5-21-12)
- (16) **STRUCTURE, SMALL ACCESSORY:** For the purposes of Section 3.4.3, Flood Hazard Area Regulations and Overlay District, "small accessory structure" means a structure as defined above that is 500 square feet or less and represents a minimal investment.
- (17) **SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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- (18) **SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of the which, over three years, or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of the structure to correct existing violations of state or local health, sanitary, or safety code specification that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or (2) the elevation of a "historic structure" as described in Paragraphs 3.4.3.E(6) and 3.4.3.E(7), provided that the substantial improvement of the "historic structure" will not preclude the structure's continued designation as a "historic structure."
- (19) **SUBSTANTIALLY COMPLETE** means that construction activities have been completed in accordance with the approved plans to a point where the development may be fully and freely used for its intended purpose.
- (20) **SURFACE WATER, MAPPED** means a river, stream (whether perennial or intermittent), lake or pond mapped by the Vermont Agency of Natural Resources.
- (21) **SURVEY** means a map prepared and certified by a Vermont licensed land surveyor that locates or establishes property lines or boundaries, or that demarcates other legal rights or interests in any tract of land, road, right-of-way or easement.

5.1.3.T

- (1) **TEMPORARY** means a use or structure that will be occurring or located on a lot for a limited and fixed period of time after which there will be no evidence remaining of the use or structure.
- (2) **TOP OF BANK** as defined by state regulation means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys, it is generally the point where the stream is able to overflow the banks and enter the floodplain. For streams in steep and narrow valleys, it is generally the same as the top of slope.
- (3) **TRAILER** means a conveyance used to transport people, animals, goods or materials that is not self-propelled and that is designed to be pulled or moved by a motor vehicle.
- (4) **TRUCK, SINGLE-UNIT** means a commercial motor vehicle on a single frame.
- (5) **TRUCK, TRAILER** means a commercial vehicle consisting of two or more units, one of which is the motor vehicle and the remainder of which are trailers.

5.1.3.U

- (1) **UNDUE ADVERSE IMPACT:** An adverse impact is undue if any of following are true: (1) the project violates a clear, written community standard intended to protect and preserve the quality of the relevant resource; (2) the project is shocking and offensive to the average person; or (3) the applicant has failed to take generally available, reasonable mitigating steps to improve the harmony of the proposed project with its surroundings or eliminate a serious negative impact on the relevant resource(s), public health, public safety or an adjacent property.

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- (2) **UNIQUE OR FRAGILE RESOURCES:** Areas that include irreplaceable, threatened, or endangered species or communities.
- (3) **USE** means the purpose or activity that a lot or structure (or a portion of a lot or structure) is intended, designed or arranged to house, accommodate, support or facilitate.
- (4) **USE, ACCESSORY** means a use of a lot or structure (or a portion of a lot or structure) that is clearly and customarily incidental and subordinate to the principal use.
- (5) **USE, PRINCIPAL** means the main or predominate use of a lot or structure (or a portion of a lot or structure). The principal use of a lot with a single- or two-family dwelling will be considered residential.

5.1.3.V

- (1) **VANTAGE POINT:** The location of a view of the proposed building site from a maintained Class 1, 2, or 3 Town road, state or interstate highway, in Waterbury, that extends for at least 200 continuous feet along that road or highway, and is at least 1,000 feet from the proposed building site.
- (2) **VIEW CORRIDOR:** A clearing of vegetation for scenic views, designed so as to maximize the views from the site while rendering the structure(s) on the site minimally visible, as defined herein.

5.1.3.W

- (1) **WETLAND** as defined in state statute means an area that is inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds.
- (2) **WILDLIFE TRAVEL CORRIDOR:** A route that permits the direct travel or spread of animals or plants from one area or region to another, either by the gradual spread of a species' population along the route or by the movement of individual members of the species.

5.1.3.X

5.1.3.Y

- (1) **YARD** means an at-grade, pervious open space on a developed lot that is unoccupied by any structure except for encroachments specifically authorized under these regulations.
- (2) **YARD, FRONT** means the yard that is located between the street and the frontline of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have two front yards.
- (3) **YARD, REAR** means the yard that is located between the rear lot line and the nearest line of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have no rear yard.
- (4) **YARD, SIDE** means a yard that is located between the side lot line and the nearest line of the principal building on the lot and extends between the front and rear yards. A corner lot will be considered to have two side yards.

5.1.3.Z