

**TOWN AND VILLAGE OF WATERBURY
ZONING REGULATIONS**

As amended through April 15, 2013

TOWN AND VILLAGE OF WATERBURY ZONING REGULATIONS

April 15, 2013

The Town of Waterbury Select Board and the Village of Waterbury Trustees approved these Zoning Amendments on April 15, 2013, and they became effective on May 6, 2013.

Interim Flood Hazard Area Regulations were approved by the Town of Waterbury Select Board and the Village of Waterbury Trustees on May 21, 2012 and are effective until December 22, 2013. They are included in these Zoning Regulations as Article VI and the associated definitions in Article XIV.

Interim Campus Overlay Bylaw Amendment were approved by the Village of Waterbury Trustees on February 27, 2013 and are effective until February 13, 2015. They are included in these Zoning Regulations as Article XIII.

WATERBURY ZONING REGULATIONS

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WATERBURY ZONING REGULATIONS

ARTICLE I ENACTMENT, TITLE, and PURPOSE

Section 100 Enactment and Title

In accordance with the provisions of 24 V.S.A. Chapter 117, the Town and Village of Waterbury hereby adopt a zoning bylaw, consisting of the following regulations and zoning maps. The Town adopts these regulations as they apply to the Town only. The Village adopts these regulations as they apply to the Village only.

Section 101 Purpose and Intent

(a) The purpose of this bylaw is to implement the Waterbury Municipal Plan by regulating the use and development of land within the Town and Village of Waterbury.

(b) It is the intention of this bylaw that the issuance of any permit or any other action taken under it be accomplished in a timely and expeditious manner and that the maximum time limit specified only be utilized when necessary.

Section 102 Effective Date

This bylaw, and any amendments or repeal thereto, shall take effect 21 days from the date of its approval by the legislative body. This bylaw was adopted for the Town of Waterbury by a vote of the Select Board on [date], and for the Village of Waterbury by the Board of Trustees on [date] and by the Village voters on [date].

Section 103 Amendments

(a) This bylaw may be amended as provided in 24 V.S.A. §§4441 and 4442.

(b) As specified in the Village of Waterbury Charter, the Trustees shall submit any proposed addition, repeal, alteration, amendment or change to the legal voters of the Village of Waterbury for their approval or disapproval, at an annual or special Village Meeting duly warned for this purpose. Approval shall be by majority vote, and voting shall be by ballot.

Section 104 Severability

If any section or provision of this bylaw is adjudged to be invalid, such decision shall not affect the validity of this bylaw as a whole or any part thereof other than the part which was held to be invalid.

ARTICLE II ADMINISTRATION

Section 200 Planning Commission

(a) The Waterbury Town and Village Planning Commission is hereby established in accordance with 24 V.S.A. §§ 4321–4323. The Planning Commission shall consist of five (5) members with three-year terms.

(b) The Planning Commission, for purposes of these regulations, shall have the power and duties set forth below, in accordance with 24 V.S.A. §§4441.

(1) To consider proposed amendments to these regulations under 24 V.S.A. §4441.

Section 201 Development Review Board

(a) The Waterbury Town and Village Development Review Board is hereby established in accordance with 24 V.S.A. §4460. The Development Review Board shall consist of seven (7) members. Members shall be appointed to staggered three-year terms by the Select Board. Alternates may also be appointed for specified terms by the Select Board to serve on the Development Review Board in situations where one or more members are disqualified or are otherwise unable to serve.

(b) Vacancies on the Development Review Board shall be filled by the Select Board by appointment for the unexpired term. Members may be removed for cause by the Select Board upon written charges and after a public hearing.

(c) The Development Review Board shall have the power and duties set forth below, in accordance with 24 V.S.A. §§4460:

(1) To hear and decide applications for subdivision review as specified under Article XII.

(2) To hear and decide applications for rights-of-way or easements for land development without frontage on a public road or public waters as specified under Section 413.

(3) To hear and decide applications for site plan review as specified under Section 301.

(4) To hear and decide applications for conditional use review as specified in Section 303.

(5) To hear and decide applications for planned unit development as specified under Article VII.

(6) To hear and decide appeals from any decision or act taken by the Administrative Officer (herein referred to as the Zoning Administrator) as specified under Section 307.

(7) To hear and grant or deny a request for a variance as specified under Section 308.

(8) To hear and decide applications for development on Ridgelines, Hillsides, and Steep Slopes as specified under Article X.

(d) According to 24 V.S.A. §4473, the Development Review Board may not amend, alter, invalidate, or affect the municipal plan or bylaws of the municipality or the implementation or enforcement thereof, or allow any use not permitted under these or other regulations.

Section 202 Zoning Administrator

(a) Pursuant to 24 V.S.A. §4448, an Zoning Administrator shall be appointed for a term of three years by the Select Board, from nominations submitted by the Waterbury Planning Commission, promptly after the adoption of these regulations or when a vacancy exists.

(b) The Zoning Administrator shall administer this bylaw literally, and shall not have the power to permit any land development or use which is not in conformance with this bylaw.

(c) The Select Board may appoint, from nominations submitted by the Planning Commission, an acting Zoning Administrator who shall have the same duties and responsibilities as the Zoning Administrator in his or her absence.

(d) A Zoning Administrator may be removed for cause at any time by the Select Board after consultation with the Planning Commission.

(e) The Zoning Administrator shall not be a member of the Planning Commission or Development Review Board.

ARTICLE III PERMITS, APPEALS, and ENFORCEMENT

Section 300 Zoning Permits

(a) Except as provided in Section 400 of this bylaw, no land development, including land subdivision, building construction or reconstruction, and change of use (see definitions), may commence unless a zoning permit has been duly issued by the Zoning Administrator in accordance with this bylaw and 24 V.S.A. §4449. All land development shall be in conformity with the regulations specified for the district in which it is located. The fee for such zoning permit shall be as established by the legislative body.

(b) Application for a zoning permit shall be on a form prescribed, signed by the property owner, and certified as correct by the applicant.

(c) Applications shall include at least one copy of an acceptable sketch plan showing the dimensions of the lot to be built on; location of all new construction, including all setbacks; and a surveyor's plot plan of the property, if available. The applicant shall also state the existing or intended use of the land development and supply such other information as may be required by the Zoning Administrator to determine and provide for the enforcement of this bylaw.

(d) The Zoning Administrator shall not issue a zoning permit unless an application, fee, sketch plan, and any other approvals required by this bylaw have been properly submitted.

(e) The Zoning Administrator shall, within 30 days of submission of a complete application, either issue or deny a zoning permit, or refer the application to the Development Review Board,. If the Zoning Administrator fails to act within this period, a permit shall be deemed issued on the 31st day. If the application is denied, the Zoning Administrator shall so notify the applicant in writing, by certified mail, stating the reasons therefore. If the zoning permit is issued, all the activities authorized by its issuance shall be completed within 2 years from the time at which all required site related construction permits have been issued, or the zoning permit shall become null and void and reapplication to complete any activities shall be required. On phased projects, the time limit may be extended for up to 4 years as part of the site plan review process. Permits issued for land development in a flood hazard area shall contain a notation that such land development is located in a regulated flood hazard area.

(f) Each zoning permit shall contain a statement of the period of time within which an appeal may be taken. Within three (3) business days following the issuance of a zoning permit, the Zoning Administrator shall:

(1) Deliver a copy of the permit to the listers of the municipality;

(2) Post a copy of the permit in at least one public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit. The applicant shall post a notice of the permit, on a form prescribed by the municipality, within view of the public right-of-way most nearly adjacent to the subject property until the time for a 15-day appeal has passed.

(3) For land development in a flood hazard area, file a copy of the permit issued with the Secretary of the Agency of Environmental Conservation and the Regional Planning Commission within ten (10) days of issuance; and

(4) File a copy of the permit in the Municipal Clerk's Office of the appropriate municipality.

(g) No zoning permit shall take effect until the time for an appeal (15 days from date of issuance) to the Development Review Board has passed or, if a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal.

(h) No zoning permit shall take effect and the corresponding land development may not commence until all required local, state, and federal permits have been issued.

(i) It is required that a plat be recorded in the Waterbury Land Records for all new land subdivisions. The plats shall be prepared and recorded in accordance with 27 V.S.A. §§1401 through 1406. The plat shall be recorded within 180 days of the issuance of the zoning permit for the land subdivision.

(j) As specified in 24 V.S.A §4442(a), if a public notice for a first public hearing is issued under this chapter by the local legislative body with respect to the adoption or amendment of a bylaw, or an amendment to an ordinance adopted under prior enabling laws, the Zoning Administrator, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed bylaw or amendment and applicable existing bylaws and ordinances. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under

existing bylaws and ordinances. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the Zoning Administrator under this section shall be subject to appeal as provided in Section 307 of this bylaw.

Section 301 Site Plan Review and Approval

(a) Any use shall be subject to site plan approval by the Development Review Board before a zoning permit may be issued, with the exception of the following:

- (1) One- or two-family dwellings, or a residential accessory structure.
- (2) Home occupations, as described in Section 407.
- (3) A project that does not involve any intensification, expansion, or change of use and does not require any parking-lot or driveway construction, expansion, or relocation.
- (4) Any application solely to erect or replace a sign.
- (5) Any other project that the Development Review Board deems to be minor in nature and would not cause a substantial increase in traffic or otherwise adversely affect the purposes of this section.

(b) Before an application for site plan review is considered complete, the applicant shall file a site plan, clearly drawn to the largest practical scale, showing the following:

- (1) Location and dimensions of lot lines, names of adjacent landowners, all easements, utilities, and existing and proposed structures.
- (2) All access to public streets or roads, parking and service areas, pedestrian walkways, curbs and stormwater drainage.
- (3) Pedestrian and vehicular circulation, including parking lot layout, entrances to structures, signs, and lighting.
- (4) Building elevations and footprints.
- (5) Detailed site grading and landscaping, indicating existing and proposed trees, shrubs, and ground cover.
- (6) The Development Review Board may request additional information it deems necessary and may visit the site to gather information.

In the Route 100 District, for properties totaling five acres or more, the additional information listed in Section 704(a)(3) is required as part of a complete application. If an application for site plan review is incomplete or contains insufficient information based on the requirements for

completeness listed above, the Development Review Board may disapprove the site plan.

(c) Any applicant for site plan approval must notify adjacent land owners by certified mail of the nature of the application and the upcoming Development Review Board review at least ten days prior to such review. The applicant must submit copies of certified-mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.

(d) The applicant for any site plan shall post a notice of permit application on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until a decision on the site plan review has been rendered by the Development Review Board. This notice shall include the date, time, place, and purpose of the site plan review. The municipality shall provide these notices to the applicant.

(e) The Development Review Board shall act to approve or disapprove any site plan within 45 days after the date the public hearing is closed. Failure to so act within such period shall be deemed approval of the site plan.

(f) The Development Review Board will take into consideration the following objectives prior to approval or denial:

(1) Adequacy of traffic access. Considerations shall include:

(A) Traffic flows at the intersection of driveways or access roads with public roads and at other affected streets and intersections.

(B) Location of driveway entrances and exits so as to have sufficient sight distances.

(C) The need for turning lanes, traffic-control devices, or special provisions for emergency vehicles.

(D) Pedestrian safety and convenience.

(2) Adequacy of circulation and parking. Considerations shall include:

(A) Assurance that the criteria of Section 414 of this bylaw are met.

(B) The need for additional off-street spaces beyond the number required in Section 414.

(C) The adequacy of surfacing and provisions for the runoff and discharge of stormwater.

(D) The provision of appropriate buffer space and landscaping to insulate parking areas from adjoining properties and public streets.

(E) Placement of trees and shrubs around the periphery of parking lots and in the interior so as to break up large parking areas. Large parking lots of 20 or more spaces shall include at least 1 tree for every 8 spaces.

(F) The adequacy of parking, loading, refuse, and service areas.

(G) Provisions for clearing snow for maintaining parking areas.

(3) Adequacy of landscaping and screening. Considerations shall include:

(A) Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility with and protection for adjacent properties and public roads.

(B) Preservation of attractive or functional existing vegetation.

(C) The adequacy of landscaping materials to meet seasonal, soil, and topographical conditions.

(D) Reduction of lighting and glare to the necessary minimum, including provision of appropriate landscaping to reduce the impact of lighting and glare on adjacent properties.

(E) Screening of unloading zones, trash bins, storage, and other service areas.

(F) The need for landscaping buffers, fences, or berms to reduce noise.

(g) Any use in the Route 100 District shall be reviewed by the Development Review Board under the standards set forth for planned unit developments in Section 705(c)-(l), and Subsections 705(m)(1)-(3) of this bylaw, in addition to the standards set forth in Section 301. These criteria are to be used in site plan review only and do not require that a planned unit development application be submitted.

(h) For any use in the Route 100 District, the Development Review Board may require suitable protection, such as deed restriction, for proposed undeveloped land designated under the criteria in Subsections 705(m)(1)-(3). A minimum of 25 percent of the Route 100 road frontage shall be reserved as undeveloped land with a minimum depth of 250' measured perpendicular to Route 100.

(i) In the Route 100 District development of one- or two-family dwellings may occur on a lot two acres or more in size, provided that the front setback to the Route 100 right-of-way is 200'. For these residential lots the frontage requirement is reduced to 200'. For these residential lots the Development Review Board may waive the requirement for review under Section 705(c) through 705(m)(1)-(3). Any two-acre lot developed as residential under this provision may not subsequently be permitted to include multiple uses within a structure, under the provisions of Subsection 503(b), and shall not qualify as a pre-existing small lot under the provisions of Section 402.

(j) Special considerations for uses of property bordering Route 2, Route 100, or Interstate 89:

(1) Buildings shall be screened or located on a lot so as to take advantage of significant existing vegetation and topographic features and to enhance the visual impact of the development from the road.

(2) Parking and loading areas may be required to be located behind buildings or otherwise screened from the road.

(3) Development access roads shall be designed to limit curb cuts in the area. A development will be permitted only one access curb cut, unless the Development Review Board finds that more than one is required for safety or effective traffic flow. The Development Review Board may require that access to properties be limited to secondary, frontage, or common access roads. The Development Review Board may require designation of a portion of a lot as a right-of-way for a frontage or common access road. Where a frontage road or common access road is planned but not yet constructed, temporary access from the main road may be permitted.

(4) In the Route 100 District, a continuous strip shall be maintained between the street line, which is the edge of the right-of-way, and the balance of the lot and shall be adequately landscaped to preserve existing vistas and minimize the visual impact of the development from the road. This strip shall extend from the street line to either 75' from the road centerline or 25' from the street line, whichever is greater. The required strip may not include any structure or parking area.

(k) In the Village Commercial (VCOM) and Town Commercial (TCOM) Districts (see Article V), the front setback may be reduced, from 50 feet to a minimum of 25 feet, if the Development Review Board determines, during site plan review, that all parking is located in the rear of a structure and adequate landscaping exists in the front along the road.

(l) Where a land development requires both site plan, conditional use approval, and/or subdivision approval, the Development Review Board shall make every effort to coordinate review of an application, including the holding of joint hearings, when appropriate.

(m) If the Development Review Board determines that no conditions or safeguards it may properly impose would ensure adequate and appropriate traffic access, circulation, parking, landscaping, and screening, then the Development Review Board shall disapprove the site plan.

Section 302 Allowed Uses

(a) There are three types of uses described in this bylaw: permitted, conditional, and nonconforming. There is a list of permitted and conditional uses allowed within each zoning district, as indicated in Article V, Table 5.1. Any use not listed as either permitted or conditional for a given zoning district is prohibited in that district. A nonconforming use is a pre-existing use that does not conform to existing zoning bylaws.

(b) Permitted uses may be approved by the Zoning Administrator, as provided in Article II, without Development Review Board review, provided the proposed use or structure conforms with all regulations that apply.

Section 303 Conditional Uses

(a) Uses designated as Conditional Uses for a district (Article V, Table 5.1), shall not be established, enlarged, constructed, or altered without approval from the Development Review Board (hereafter, the "Board") in accordance with the standards and procedures established in this bylaw and 24 V.S.A. §4414.

(b) Any applicant for conditional use approval must notify adjacent land owners by certified mail of the nature of the application and of upcoming Development Review Board public hearing at least ten days prior to such hearing. The applicant must submit copies of certified mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.

(c) The applicant for any conditional use shall, at the time the application is submitted, post a notice on a form prescribed by the municipality within view of the public right-of-way most nearly adjacent to the subject property until a decision on the conditional use application has been rendered by the Development Review Board. This notice shall include the date, time, place, and purpose of the conditional use review. The municipality shall provide these notices to the applicant.

(d) Before the Board authorizes the issuance of a conditional use permit, the Board shall hold a public hearing and shall give notice of the public hearing as directed by 24 V.S.A. §4464. Failure of the Board to act to approve, approve with conditions, or disapprove any such requested conditional use within 45 days after the date of closing the final public hearing shall be deemed approval.

(e) Prior to granting any approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

(1) The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it. The proposed use:

(A) Will not cause the level of service on roads and highways to fall below a reasonable standard;

(B) Will not cause an unmanageable burden on municipal water or sewer systems;

(C) Will not lead to such additional school enrollments that existing and planned school system capacity is exceeded; and

(D) Will not cause an unmanageable burden on fire protection services.

(E) The Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board, or other municipal officials regarding relevant facilities. The Board will also take into account sections of the Municipal Plan and of any duly adopted capital plan which specify anticipated demand growth, service standards, and facility construction plans.

(2) The proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located. Specifically, the proposed use:

(A) Will not result in undue water pollution, undue adverse impacts to downstream properties, and will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; in making this determination, the Board shall at least consider the elevation, the slope of the land, and the nature of soils and subsoils and their ability to adequately support waste disposal;

(B) Will not result in undue noise, light, or air pollution, including offensive odors, dust, smoke, or noxious gasses;

(C) Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;

(D) Will not be otherwise inconsistent with existing uses in the immediate area; in determining the appropriateness of the use or structure in an area, the Board shall consider the scale and design of the proposed use or structure in relation to the scale and design of existing uses and structures in the same district; and

(E) Will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area.

(3) The proposed use will not violate any municipal bylaws and ordinances in effect.

(4) The proposed use will comply with the specific lot area, setbacks, and lot coverage requirements set forth in this bylaw. The Board may require the proposed use to conform to more stringent lot area, setback, and lot coverage requirements as it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw.

(f) The Board may attach any reasonable conditions and safeguards it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw, including, but not limited to, the following conditions:

(1) For uses that will cause the level of service on a road or street to exceed a Level of Service C, as defined by the Vermont Agency of Transportation, the Board may require modifications to the proposed access, circulation, and parking or may require contributions, based on the project's share of the projected volume of traffic above the Level of Service C, for making the following possible modifications:

(A) Reduction in curb cuts, change in location or number of access points, and shared access with adjoining property owners.

(B) Installation of acceleration or deceleration lanes on the street or highway adjacent to any driveway, frontage, or service road;

(C) Improvements to access or other intersections burdened by a project.

(2) With the exception of agricultural uses, the Board may require the installation of devices or methods to prevent or control fumes, gas, dust, smoke, odor, noise, or vibration.

(g) For any proposed development in flood hazard areas, the conditional use standards established in Section 603 shall be applied in addition to those in this section.

(h) The removal of earth or mineral products which is not incidental to a construction, landscaping, or agricultural operation shall require a conditional use permit. In addition to finding the project meets the other standards in this section, a removal project must meet the following

conditions:

- (1) The applicant shall submit a general plan of extraction and reclamation.
- (2) The operator shall provide for the proper drainage of the area of the operation during and after completion. Excavation operations shall not be conducted within 100 feet of adjoining lot lines. Excavation operations shall not have an undue adverse impact on soil fertility, drainage, and lateral support of adjacent land or other properties, nor shall it contribute to soil erosion by water or wind.
- (3) At the conclusion of the operation, or of any substantial portion thereof, top soil shall be replaced to a depth capable of supporting vegetation and a suitable cover crop established, except where ledge rock is exposed.
- (4) If removal or fill takes place within any stream bed or its banks, a permit shall first be obtained from the Vermont Department of Water Resources, if required.
- (5) The hours of operation, routes, and frequency of traffic generated by the operation shall be regulated to maintain the safety and character of neighborhoods along the routes of travel.
- (6) All permits granted for the removal of earth or mineral products are subject to review by the Development Review Board every three years for continuation or termination.
 - (i) If the Board determines that no conditions or safeguards it may properly attach would result in compliance with the general standards and criteria set forth above, then it shall deny the application.

Section 304 Nonconforming Uses and Noncomplying Structures

(a) A use made nonconforming or a structure made noncomplying (see definitions) by enactment of this bylaw, or an amendment thereto, may be continued, subject to the following conditions:

- (1) Under its power to grant conditional use approval and through that procedure, the Development Review Board may allow a nonconforming use to be changed to another nonconforming use, provided that it finds the change to be more in conformance with the district requirements and allowable uses.
- (2) A nonconforming use may be extended (see definition of extension of use) within the boundary lines of a parcel or lot existing on the date of this bylaw, or an amendment thereto, with the approval of the Development Review Board and with the granting of all required permits. The Development Review Board must find that a proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.
- (3) When a nonconforming use has been discontinued for a period of one year, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this bylaw. Discontinuance shall not be deemed to have occurred if the Board finds that the maintenance of equipment and other acts of the owner demonstrate an intent to continually

maintain the use. The Development Review Board must find that a proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.

(b) Nothing in this section shall prevent the issuance of a building permit for restoration or reconstruction within one year of a structure damaged or destroyed by fire or other catastrophe to its condition prior to such damage or destruction.

(c) In accordance with 24 V.S.A. §4412(h), the Development Review Board, after public hearing, may approve the repair, relocation, replacement, or enlargement of a noncomplying structure within a designated flood hazard area, subject to compliance with applicable federal laws and regulations, and provided that the following criteria are met:

(1) The Board must find that the repair, relocation, or enlargement of the noncomplying structure is required for continued economically feasible operation of a non-residential enterprise.

(2) The Board must find that the repair, relocation, or enlargement of the noncomplying structure will not increase flood levels in the floodway, or threaten the health, safety, and welfare of the public or other property owners.

(d) The permit affecting a noncomplying structure in a flood hazard area, if granted, must state that the repaired, relocated, or enlarged noncomplying structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner. A copy of the permit must be affixed to the copy of the deed of the concerned property on file in the Municipal Clerk's Office.

Section 305 Temporary Uses and Structures

(a) Uses and temporary structures, such as commercial tents, flea markets, and auctions, which occur or are expected to occur in the same location more than 7 days in any three-month period, shall require the issuance of a permit from the Zoning Administrator before the activity commences.

Section 306 Uses Not Permitted

(a) Any use not specifically allowed by this bylaw or exempted by 24 V.S.A. Ch. 117 is prohibited.

(b) In addition, the following uses are specifically prohibited in all districts: junk yards, machinery wrecking yards; smelters; blast furnaces; rendering plants; hide tanning or curing plants; the manufacturing or processing of fertilizer, bone, rubber, asphalt, ammonia, or chlorine; the manufacturing or refining of petroleum, gas, explosives; and the bulk storage of explosives; dumps or landfills, except for municipally-operated landfills, and hazardous waste storage facilities.

(c) Uses that will cause unreasonably obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat at the boundaries of a property are prohibited.

(a) Any interested person as defined under 24 V.S.A. §4465 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Development Review Board, or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

(b) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the 24 V.S.A. §4468. The Board shall give public notice of the hearing and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date. For an appeal from a decision on a proposed variance within a flood hazard area, the Development Review Board shall give notice of the date and place of the hearing to the Vermont Department of Environmental Conservation.

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

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

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

(f) A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A. §4466:

- (1) The name and address of the appellant,
- (2) A brief description of the property with respect to which the appeal is taken,
- (3) A reference to applicable provisions of this bylaw,
- (4) The relief requested by the appellant, including any request for a variance from one or more provisions of this bylaw, and
- (5) The alleged grounds why such relief is believed proper under the circumstances.

(g) Any person appealing from a decision on a request for a variance according to the provisions of Section 308 must notify adjacent land owners by certified mail of the nature of the variance requested and of the upcoming Development Review Board public hearing at least ten days prior to such hearing. The appellant must submit copies of certified mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.

(h) As specified in 24 V.S.A. §4470, the Development Review Board may reject an appeal without hearing and render a decision, which shall include findings of fact and conclusions, within ten (10) days of the date of filing of an appeal, provided that the Development Review Board considers the issues raised by the appellant to have been decided in an earlier appeal or involved ~~are the same in~~ substantially or materially the same facts by or on behalf of that appellant. The decision shall be rendered, on notice given, as in the case of a decision under 24 V.S.A. §4464(b)(3), and shall constitute a decision of the Development Review Board for the purpose of 24 V.S.A. §4471.

(i) An interested party who has participated in a proceeding authorized under these bylaws may appeal a decision of the Development Review Board within thirty (30) days of such decision to the Environmental Court, as specified in 24 V.S.A. §4471.

Section 308 Variances

(a) As specified in 24 V.S.A. §4469, the Development Review Board may grant variances for a structure that is not primarily a renewable energy resource structure on appeal. Variances may be granted for a zoning district's dimensional requirements, but variances may not be granted from permitted or conditional uses, from minimum lot areas requirements, or from sign requirements. As required in 24 V.S.A. §§4469, a variance will be granted only if all the following facts are found and the finding is stated in the Board's decision:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not to the circumstances or conditions generally created by this bylaw in the district in which the property is located;

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this bylaw and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

(3) That such unnecessary hardship has not been created by the appellant;

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

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this bylaw and from the Municipal Plan.

(b) For properties determined to be in a flood hazard area, in addition to the criteria in subset (a) above, the Development Review Board must find that the requirements of Article VI, Flood Hazard Area Regulations and Overlay District, are met.

(c) In granting a variance, the Board may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purpose of 24 V.S.A. Ch. 117 and this bylaw.

(d) Variances shall not be granted for the location, height, and other characteristics of signs.

Section 309 Waivers

(a) Notwithstanding the minimum setback standards set forth in Table 5.2, in accordance with 24 V.S.A. § 4414(8), the Development Review Board may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided, however, that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought.

(b) Any applicant for a setback waiver pursuant to Section 309(a) must notify adjacent land owners by certified mail of the nature of the application and of upcoming Development Review Board public hearing at least ten days prior to such hearing. The applicant must submit copies of certified mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.

Section 310 Enforcement

(a) As provided for in 24 V.S.A. §4451, any person who violates this bylaw shall be fined not more than fifty dollars for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of this bylaw after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall 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. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of this bylaw shall be paid over to the municipality whose bylaw has been violated.

(b) As specified in 24 V.S.A. §4452, if any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this bylaw, the Zoning Administrator shall institute in the name of the municipality any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.

ARTICLE IV GENERAL REGULATIONS

Section 400 Compliance With This Bylaw

(a) No land development may commence except in conformance with the regulations herein specified for the district in which it is located.

(b) No lot or required yard shall be so reduced in area, setbacks, frontage, coverage, or other requirements that it does not meet such requirements for the district where it is located. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

(c) In the case of lots lying in more than one district, the following shall apply:

(1) The less restrictive use may extend into the more restrictive portion to a maximum of 30 feet.

(2) If the lot size requirement has been met in any district, any amount of additional acreage may be added to the lot from the adjacent district, but any development in the adjacent district shall meet the dimensional requirements of that district except as provided for in subsection 400(c)(3).

(3) The dimensional requirements of any a less restrictive district may extend into and be applied in any adjacent district up to a maximum of 50 feet.

(d) Nothing contained in this bylaw shall require any change in the plans, construction, or designated use of a building complying with local laws in force prior to this bylaw revision, if a prior permit shall have been duly issued, and the entire building shall have been completed in accordance with such plans within one year from the effective date of this bylaw revision, or such time period for completion as is stipulated in the permit.

(e) Compliance with this bylaw shall not waive the obligation of the applicant to comply with any other state or local regulations governing the development or use of the property.

(f) Except as required in Article VI, Special Flood Hazard Area Regulations and Overlay District, no zoning permit is required, nor are setbacks applicable, for the following:

(1) Any alteration that does not change the dimensions, location, or use of an existing building or structure;

(2) Landscaping of a lot or premises, including ponds, provided such does not materially alter a landscaping plan approved under this ordinance;

(3) Trails, including hiking, recreation, snowmobile, and bicycle trails;

(4) The removal of surplus material that results from a bona fide construction, landscaping, or agricultural operation;

(5) Fences or walls of six (6) feet or less in height in any side or rear yard, or four (4) feet or less in height in any front yard, that do not interfere with corner visibility;

(6) Utility poles and connection boxes, water well casings, and propane gas tanks not used for commercial storage;

(7) Sheds, dog houses, tree houses, residential swing and play structures, satellite dishes, and similar structures with a floor area not more than eighty (80) square feet and a height of not more than eight (8) feet that may be lawfully located within any required yard except the front yard, but not closer than ten (10) feet from any property line;

(8) Public utility power-generating plants and transmission facilities regulated under 30 V.S.A. §248;

(9) Hunting, fishing, trapping, and other activities specified under 24 V.S.A. §2295; and

(10) Farm structures or farming, as those terms are defined in 6 V.S.A. §4810 and 10 V.S.A. §§1021(f), 1259(f) & 6001(22). For purposes of this section, “farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, but excludes a dwelling for human habitation. A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food, and markets. Agricultural activity is farming in accordance with the state Accepted Agricultural Practices and farming as defined in 10 V.S.A. Section 6001. . Violations of the Accepted Agricultural Practices shall be enforced as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. § 4812.

Section 401 Dimensional Requirements

(a) No building or structure shall exceed the height limit applicable to the district where it is located. This limit shall not apply to farm buildings, flagpoles, radio or television aerials, or similar features; or to spires, cupolas, chimneys, ventilators, tanks, or similar parts of a building provided that they occupy not more than ten (10) percent of the floor area of such building and are not used for any human occupancy.

(b) Notwithstanding provisions for front yards elsewhere in these bylaws, on streets with less than 50-foot right-of-way, the front yard setback shall be measured from the centerline of the existing roadway and 25 feet shall be added to the front yard setback requirement.

(c) In the case of a corner lot, the required front yard dimension shall apply on all streets.

(d) Any permanent right-of-way or easement on a lot of one acre or less shall not be included when determining the area of that lot. On lots larger than one acre, permanent rights-of-way or easements may be included in determining lot area.

(e) A parcel of land that is divided by a public highway shall, for the purposes of this bylaw, be considered as separate lots and the lot area of the one side shall not be added to the lot area on the other side of the highway in calculating minimum lot area.

(f) No obstruction to vision shall be placed or allowed to grow at street intersections.

Section 402 Existing Small Lots

(a) Any lot in individual and separate and nonaffiliated ownership from surrounding properties by deed in existence on the effective date of this bylaw, as amended from time to time, may be developed for the purpose permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum lot width or dimension of forty (40) feet.

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

(1) The lots are conveyed in their preexisting, nonconforming configuration.

(2) On the effective date of this bylaw, each lot was developed with a water supply and wastewater disposal system.

(3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Ch. 64.

Section 403 More than One Building or Use on a Lot

More than one principal use or structure on the same lot may be permitted provided that each of the principal uses or structures meets all of the dimensional and other requirements of this bylaw, including minimum lot size and setbacks, as if it were on a separate lot. Accessory dwelling units, as defined in Article X of this bylaw, are not considered principal uses or structures under this bylaw.

Section 404 Travel Trailer and Recreation Vehicle Storage

Travel trailers or recreational vehicles may be stored on the premises of the owner. They may not be used for dwelling purposes for more than one month in any year without a zoning permit.

Section 405 Residential Care and Group Homes

In accordance with 24 V.S.A. §4412, a state-licensed or -registered residential care or group home, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A.

§4501, shall be considered by right to constitute a permitted single-family residential use of property.

Section 406 Daycare Facilities

In accordance with 24 V.S.A. §4412, a state-registered or -licensed daycare facility serving six (6) or fewer children shall be considered by right to constitute a permitted single-unit residential use of property.

Section 407 Home Occupations

(a) No provision of this bylaw shall prevent a person from using a minor portion of the dwelling in which he or she resides and/or an accessory building on the same lot for a home occupation. A person wishing to establish a home occupation must first obtain a permit from the Zoning Administrator. Site plan review is not required for home occupations.

(b) Applications for home occupations must meet the following criteria in order to receive zoning permit approval. For those applications that do not clearly meet these criteria, the Zoning Administrator shall refer to the Development Review Board for a ruling on whether an application qualifies as a home occupation:

(1) The occupation must be customary in residential areas, subordinate to residential purposes, and shall not have an undue adverse impact on the character of the neighborhood as defined by the Municipal Plan and the zoning district in which the proposed home occupation is located.

(2) Regardless of whether the home occupation is in the dwelling or an accessory building, the total area devoted to the home occupation shall be less than 35 percent of the area of the dwelling living space, excluding garages and other accessory structures or space.

(3) The home occupation must be operated by a member or members of the family residing in the principal building.

(4) Not more than one person outside the family shall be employed or conduct business from the premises.

(5) The home occupation shall be conducted wholly within the principal building or accessory building and no goods, materials, equipment, vehicles, or products shall be displayed or stored outside on the premises.

(6) The home occupation shall not produce levels of noise, smoke, vibration, dust, glare, odors, electrical interference, heat, or risk of fire beyond those normally present in residential areas.

(7) Traffic generated by the home occupation shall be limited to a level and type that would normally be generated by a residence in the neighborhood.

(8) Parking shall be provided off street for household members, employees, and those with whom

business is transacted, in accordance with Section 414.

(c) A zoning permit issued for a home occupation shall not follow the land. Therefore, the permit expires when the individual who was granted the permit no longer resides on the premises. If another individual wishes to continue a particular home occupation, he or she shall apply to the Zoning Administrator for a permit.

Section 408 Fences

(a) In all districts, fences are restricted to a height of six (6) feet, unless otherwise permitted in site plan approval.

Section 409 Public Utility Substations

Public utility substations and similar utility structures require a zoning permit and site plan review, must conform with the district regulations for front, side, and rear yards, and may be required by the Development Review Board to be fenced. If the public utility substation project is being reviewed by the Vermont Public Service Board under 30 V.S.A. §248, the project does not require a Zoning Permit under Section 400(f)(8).

Section 410 Storage of Flammable Commodities

The storage of any highly flammable commodities in containers above or below ground with unit capacity greater than one thousand (1,000) gallons shall be installed and constructed in accordance to all appropriate state and federal regulations. All zoning applications that involve the storage of these flammable commodities must obtain all applicable state and federal permits before a zoning permit can be issued. In particular, the storage of propane gas in quantities exceeding one thousand (1,000) gallons shall be done according to the 1987 BOCA Fire Prevention Code and the National Fire Protection Association (NFPA) Article 58 and all other applicable regulations. Fuel oil storage containers shall be constructed and installed according to the NFPA Flammable and Combustible Liquid Codes Handbook, Articles 30 and 31, and all other applicable regulations.

Section 411 Demolition, Abandonment of Structure

(a) The demolition of all or part of any nonresidential and nonagricultural building or accessory building shall require the issuance of a zoning permit and site plan review by the Development Review Board, since it constitutes a change of use.

(b) In Waterbury Village, within six months after a permanent or temporary building or structure has been destroyed or demolished, all evidence of that structure shall be removed from the site, and excavation thus remaining shall be covered over or filled to the normal grade with suitable fill. An abandoned structure must be safely enclosed.

Section 412 Other Required Permits

(a) Applicants for a proposed use or structure that will require some form of sewage disposal, but that will not be hooked up to a municipal waste disposal system, must obtain a permit from the Waterbury Health Officer, in accordance with the Town Health regulations, for any new construction, modifications, or any other changes affecting an existing or proposed on-site waste disposal system.

(b) Applicants for a proposed use or structure that will require a municipal water or sewer connection must obtain written approval from the Waterbury Water and Sewer Commissioners or the Municipal Manager's Office.

Section 413 Driveways and Curb Cuts

(a) Driveways and their intersections with public roads must obtain a curb-cut permit from the Municipal Manager for driveways intersecting municipal roads, or the Vermont Agency of Transportation for driveways intersecting state roads.

(b) In accordance with 24 V.S.A. §4406, no land development may be permitted on lots that do not either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way. The Zoning Administrator may permit such development without Development Review Board approval if he or she finds that the access is by permanent easement or right-of-way, and is at least fifty feet in width.

Section 414 Parking Regulations

(a) Parking facilities off the street or highway right-of-way shall be provided to serve any building that is erected, moved, altered, or enlarged or any use of a building or premises that is established, enlarged, or changed in any district after the adoption of this bylaw. Such facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting such building or premises at any one time.

(b) A parking space shall be at least 9 feet by 18 feet and shall have unobstructed access. A garage may be included as a parking area. Appropriate aisle width and turn lanes in relation to the angle of the parking rows shall be provided. The safe and adequate location of entry and exit points shall be provided.

(c) Required parking facilities shall be located on the same lot as the building or other use which they serve, except with the approval of the Development Review Board in site plan review as provided below:

(1) Public on-street or other parking in lieu of on-site parking may be utilized to fulfill parking requirements as allowed by the legislative body or other authority responsible for such public parking.

(2) Required parking to be provided off premises shall be within a reasonable distance from the proposed building or use.

(3) The applicant must provide evidence of a binding agreement with the owner of the proposed off-site parking facility showing that the parking will be available. If at any point the off-site parking is no longer available for the applicant's use, then the applicant must file an application for an amended site plan that addresses the required parking.

(d) Unless approved by the Development Review Board under subsection (e) below, required parking facilities shall contain not less than the minimum set forth below, exclusive of driveways, ramps, and turning areas necessary for access:

(1) Dwellings: one and one-half (1.5) spaces for each dwelling unit.

(2) Churches, theaters, auditoriums, assembly halls: one (1) space for every three (3) seats or participants.

(3) Motels, hotels, lodging or boarding houses, hospitals: one (1) space for every guest room or patient room, plus employee parking with one space for every person normally working on premises during any one shift.

(4) Offices, medical or veterinary clinics, home occupations: one (1) space for every three hundred (300) square feet of floor area.

(5) Banks, retail stores or services, similar businesses: one (1) space for every three hundred (300) square feet of floor area.

(6) Industrial plants, wholesale establishments, warehouses, and similar facilities: one (1) space for every person employed at peak times.

(7) Nursing homes, community-care homes for the aged: one (1) space for every person normally working on premises during any one shift, plus one (1) space for every six patients.

(8) Funeral homes: one (1) space for every seventy-five (75) square feet of floor area open to the public in the conduct of the business.

(9) Outdoor places of assembly or public recreation: one (1) space per four (4) persons based on maximum capacity.

(10) Eating and drinking establishments: one (1) space for every three seats, including bar stools, plus one (1) space for every person normally working on premises during any one shift.

(11) Housing for the elderly: one (1) space for every three (3) units.

(12) Private club or lodge: one (1) space for every four (4) seats.

(e) With the approval of the Development Review Board, parking requirements may be waived as follows:

(1) Parking requirements may be reduced by up to twenty-five (25) percent, provided that this space be dedicated as lawn or landscaping and have the potential of future conversion to parking should it be determined that more parking spaces are necessary.

(2) Parking spaces may be used for more than one use, upon approval of the Development Review Board, provided that the applicant demonstrates that the spaces will be used at different times by each use.

Section 415 Referral to State Agencies

(a) The following uses require submission of a report to a state agency as required in 24 V.S.A. §4409(c). These reports shall be submitted to the appropriate agency by the applicant at least thirty (30) days before a permit is granted.

(1) Any use in or within one thousand (1,000) feet of any state-owned or -leased property, except in any incorporated village or city.

(2) Any use in an area designated as a floodplain or wetland, the damming of streams so as to form an impounding area of five (5) acres or more for reservoir or recreational purposes; and the drilling of wells deeper than fifty (50) feet or with a potential yield greater than twenty-five thousand (25,000) gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his own use or the use of the farm.

(3) Game lands and stream-bank area owned or leased by the state.

(4) Airports.

(5) Ski areas with lifts or other equipment other than tows with total capacity of more than five hundred (500) persons per hour; camps with accommodations for more than fifty (50) persons; marinas with accommodations for twenty (20) or more boats with lengths in excess of twenty (20) feet; public beaches, or lands within one thousand (1,000) feet thereof; and natural areas as defined in 10 V.S.A. §2010.

(6) Any use within five hundred (500) feet of the intersection of any entrance or exit ramp providing access to any limited-access highway.

ARTICLE V ZONING DISTRICT REGULATIONS

Section 500 Official Zoning Map

The location and boundaries of zoning districts are established as shown on the Waterbury Town and Village Zoning Maps. The Zoning Maps, together with all explanatory material thereon, are hereby adopted by reference as part of this bylaw and can be found in Appendix B.

Section 501 Establishment of Zoning Districts

For the purpose of this bylaw, the Town and Village of Waterbury are hereby divided into the following zoning districts, as shown on the official zoning maps.

<u>ABB.</u>	<u>NAME</u>
IND	Industrial
DC	Downtown Commercial
DMUD	Downtown Overlay Mixed-Used Sub-District
VNC	Village Neighborhood Commercial
TNC	Town Neighborhood Commercial
VCOM	Village Commercial
TCOM	Town Commercial
RT100	Route 100
TMR	Town Mixed Residential
VMR	Village Mixed Residential
VR	Village Residential
MDR	Medium-Density Residential
LDR	Low-Density Residential
MIL	Mill
REC	Recreation
CNS	Conservation

Section 502 Interpretation of Zoning District Boundaries

(a) District boundaries indicated as approximately following roads, streets, alleys, streams, bodies of water, and transportation or utility rights-of-way shall be deemed to follow the center lines thereof. Where a district boundary is approximately on a lot line, such line shall be considered as the district boundary.

(b) Zoning districts shall include any land under rivers, streams, lakes, or ponds lying within them.

(c) If uncertainty exists with respect to the boundary of any zoning district on the zoning map, the Planning Commission shall determine the location of such boundary.

Section 503 Permitted and Conditional Uses by District

(a) Permitted uses in a district are indicated by a "P" under a district and conditional uses are indicated by a "C." Uses not designated by a "P" or "C" in any district are prohibited in that district.

(b) Multiple uses within a single structure are permitted in the IND, DMUD, DC, VNC, TNC, VCOM, TCOM, RT100, VMR, TMR, and MIL districts, provided that all other requirements in this bylaw, including use limitations, setbacks, and other layout requirements, are met. Multiple uses within a single structure are prohibited in all other districts, except for accessory uses and multiple uses incorporated in planned unit developments, as specified in Article VII.

(c) Accessory uses, which are uses customarily incidental and subordinate to a principal building or use, are permitted on the same lot provided they meet all other standards in this bylaw. Uses accessory to a conditional use shall be applied for and approved under the same procedure as the conditional use.

(d) An accessory dwelling unit that is located within or appurtenant to a single-family dwelling shall be a permitted use. An accessory dwelling unit may be located in an accessory structure that is separate from the primary dwelling. An accessory dwelling unit shall be located on the same lot as the primary dwelling. An accessory dwelling unit is an efficiency or one-bedroom apartment, located within or appurtenant to a single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (1) The owner occupies either the primary dwelling or accessory dwelling.
- (2) The property has sufficient wastewater capacity.
- (3) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, or the unit does not exceed 1,400 sq. ft. of habitable floor area, whichever is greater.
- (4) Applicable setback, coverage, and parking requirements specified in this bylaw are met.

(e) The current permitted and conditional uses for the Industrial Zoning District as listed in the Use Regulation Table (Article V, Table 5.1) shall be allowed in the Downtown Overlay Mixed-Use Sub-District (DMUD) as permitted and conditional uses as currently listed. In addition to these uses the following additional uses shall be allowed in the Downtown Overlay Mixed-Use Sub-District as conditional uses:

- Bank – Conditional Use;
- Commercial School – Conditional Use;
- Medical Office – Conditional Use;
- Nursery/day care (<7 children) – Conditional Use;
- Nursery/day care (7+ children) – Conditional Use;
- Restaurant, Bar (<= 2,000 sf) – Conditional Use;
- Restaurant, Bar (>2,000 sf) – Conditional Use;
- Hospital/Clinic – Conditional Use.

(Use Regulation table goes here)

(a) All uses and land development in a district shall conform to the following district minimum lot areas, lot frontages, maximum lot coverages, maximum structure heights, and front, side, and rear yard setbacks. In no case shall a structure be less than the distance of the front, side, or rear yard setback from any lot line.

Table 5.2: Dimensional Requirements by District

DISTRICT	LOT AREA	FRONTAGE	HEIGHT	COVERAGE	YARD SETBACKS		
					FRONT	SIDE	BACK
IND	20,000SF	--	40	50%	50	25 ¹	25 ¹
DC	0	--	50		0	0	0
TNC & VNC	10,000SF	--	35	40%	30	15	30
VCOM	20,000SF	--	40	40%	50 ²	20	20
TCOM	1 acre	--	35	25%	50 ²	25	25
RT100	5 acres ⁴ 400 ⁵		35 ³	5% ⁶	100 ⁷	50	50
VMR, VR & MIL:							
1 Fam.	10,000SF	--	35	25%	30	10	30
2 Fam.	15,000SF	--	35	25%	30	15	30
other	20,000SF	--	35	25%	40	25	50
TMR							
1&2 Fam.	1 acre	--	35	20%	30	30	30
other ⁸							
MDR	2 acres	200	35	--	60	50	50
LDR	5 acres	300	35	--	70	75	75
REC	10 acres	300	35	--	70	75	75
CNS	10 acre	300	35	--	100	100	100

NOTES: (1 acre = 43,560 sq. ft.) (1) The setback is 100 feet adjacent to a residential district. (2) This may be reduced to 25 feet, if specific criteria are met during site plan approval. (3) It shall be no more than 2 stories in height in this district. (4) The minimum lot size is 2 acres for residential use. (5) The minimum lot frontage for a 2-acre residential lot is 200'. (6) Coverage is 10 percent for pre-existing small lots and 10 percent for any lot, excluding undeveloped land, created in a planned unit development. (7) The front setback for single- and two-family residential structures is 200 feet from the building front line to the ROW for Rt. 100. (8) For "other" uses in the TMR District, there is a limit of two units per acre with a maximum of 4 units per building. (9) All dimensions are in feet unless otherwise noted. (10) All dimensional requirements, including lot area, are minimums with the exception of height and coverage requirements, which are maximums.

(b) Density requirements for multi-family dwellings shall conform to the following table:

Table 5.3: Multi-Family Density by District

<u>Zoning District</u>	<u>D.U.¹/Acre</u>	<u>D.U.¹/Building</u>
Downtown Commercial (DC)	25	15
Village Neighborhood Commercial (VNC)	20	15
Town Neighborhood Commercial (TNC)	8	8
Village Commercial (VCOM)	6	8
Town Commercial (TCOM)	6	8
Route 100 (RT100)	2	6
Town Mixed Residential (TMR)	2	4
Village Mixed Residential (VMR)	15	12
Mill (MIL)	4	8

NOTE: D.U. = dwelling unit

ARTICLE VI INTERIM FLOOD HAZARD AREA REGULATIONS AND OVERLAY DISTRICT

NOTE: This Article VI is Interim Zoning Regulations that were approved by the Town of Waterbury Select Board and Village of Waterbury Trustees on May 21, 2012, and are effective until December 22, 2013.

Section 600 Statutory Authorization and Requirement for Zoning Permit

(a) 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 the Town/Village of Waterbury, Vermont.

Section 601 Statement of Purpose

(a) It is the purpose of this ordinance 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.

Section 602 Lands to Which These Regulations Apply

(a) Regulated Flood Hazard Areas

These regulations shall apply to all areas in the Town/Village of Waterbury that are identified as areas of special flood hazard in and on the most current flood insurance studies and maps published 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 these regulations.

(b) Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

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

Section 603 Summary Table: Development Review in Hazard Areas

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	A Administrative Permit Review B Board Review X Prohibited E Exempted		
1	New structures	B	X
2	Storage	B	X
3	Substantial improvements to existing structures	A,B	B
4	Small appurtenant structures	A	X
5	Additions to existing structures	A,B	B
6	At-grade parking	A	B
7	Water supply or septic systems	A	A
8	Fill as needed to elevate existing structures	B	B
9	Fill	B	X
12	Grading/excavation	B	B
13	Road maintenance	E	E
14	Road improvements	A	B
15	Bridges and culverts	B	B
16	Channel management	B	B
17	Recreational vehicles	A	A
18	Open space, recreation	E	E
19	Forestry	E	E
20	Agricultural activities/farm structures	E	E

Section 604 Development Review in Hazard Areas

(a) Permit

(1) A permit is required from the Administrative Officer (ZA) for all development in all areas defined in Section 602. Development that requires Board approval, nonconforming use approval, or a variance from the Development Review Board under these flood hazard regulations must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the applicable criteria in Sections 605. 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 Section 606(a)(7).

(b) Administrative Permit Review

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area—that are outside of the Floodway and meet the applicable Development Standards in Section 605—require only an administrative permit from the ZA:

- (1) Non-substantial improvements;
- (2) Small accessory structures 200 square feet or less;

- (3) Additions to existing structures not requiring fill;
- (4) Development related to on-site septic or water supply systems not requiring fill;
- (5) Building utilities;
- (6) At-grade parking for existing buildings;
- (7) Recreational vehicles; and
- (8) Subdivisions fewer than five lots or less than five acres, where no development is proposed within the Special Flood Hazard Area.

(c) Prohibited Development

For purposes of review under these regulations, the following development activities are prohibited in the Special Flood Hazard Area and Floodway:

- (1) Junk yards;
- (2) New structures in the floodway;
- (3) 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 Section 605; and
- (4) All development not exempted or permitted in the applicable zoning district.

(d) Board Review

Review and approval by the Board, is required prior to the issuance of a permit by the ZA for the following proposed development activities:

- (1) New residential or non-residential structures (including the placement of manufactured homes);
- (2) The substantial improvement, elevation, relocation, or floodproofing of existing structures;
- (3) Small appurtenant structures larger than 200 square feet;
- (4) Additions to existing structures in the floodway that require fill;
- (5) Grading, excavation, or the creation of a pond;
- (6) Bridges, culverts, channel-management activities, or public projects that are functionally dependent on stream access or stream crossing;
- (7) Storage facilities.

(e) Exempted Activities

The following are exempt from regulation under this regulation:

- (1) The removal of a building or other structure in whole or in part;
- (2) Maintenance of existing roads and stormwater drainage;
- (3) Recreational vehicles that are fully licensed and ready for highway use;
- (4) Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and
- (5) Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP).

(f) Nonconforming Structures and Uses

The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area, provided that the proposed development is in compliance with all the applicable Development Standards in Section 605 of this Article.

- (1) A structure that is located in the flood hazard area and is destroyed may be reconstructed. All reasonable effort shall be taken to place the new structure in a less hazardous location on the parcel.
- (2) An individual manufactured-home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this regulation.
- (3) Any fuel storage tank that does not fully conform to the requirements set forth in Section 605(a)(1)(C) shall 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 Section 605(a)(1)(C). A structure containing a nonconforming fuel storage tank may not be relocated or enlarged unless the nonconforming tank is brought into compliance with Section 605(a)(1)(C). A fuel storage tank that is destroyed by any cause may not be replaced unless the replacement tank is brought into compliance with Section 605(a)(1)(C). With respect to nonconforming fuel storage tanks, this subsection shall take precedence over any contrary provision, and any more permissible provision of Section 304 of the Bylaws, as well as any other contrary or more permissible provision found elsewhere in these Bylaws.

Section 605

Development Standards

(a) Special Flood Hazard Areas

- (1) All development within the Special Flood Hazard Area shall be:
 - (A) Reasonably safe from flooding; and
 - (B) Recreational vehicles placed on sites within Zones A1-30, AH and AE must either:
 - (1) be onsite for fewer than 180 consecutive days; (2) be fully licensed and ready for highway use; or (3) meet the elevation and anchoring requirements in Section 605(a)(2)(H); and
 - (C) All fuel storage tanks shall meet the requirements set forth in Sections 605(a)(2)(A) through (D) and shall be either elevated or floodproofed.

(2) All substantial improvements and new construction (including fuel storage tanks) within the Special Flood Hazard Area shall meet the following criteria:

(A) Be designed, operated, maintained, modified and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;

(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;

(E) New and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters in the systems;

(F) 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.

(G) All new subdivisions and other proposed developments that are greater than 50 lots or 5 acres, whichever is the lesser shall include within such proposal base flood elevation data. All new subdivisions: (i) shall be consistent with the need to minimize flood damage; (ii) shall have public utilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and (iii) shall provide adequate drainage to reduce exposure to flood hazards.

(H) 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 shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or 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 shall 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.

(I) A non-residential, appurtenant structure of 500 square feet or less that represents a minimal investment need not be elevated to or above the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 605(a)(6).

(3) In Zones AE, A, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, new construction and substantial improvement shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with

all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

(4) All new construction and substantial improvements of residential structures within Zones A1-30, and AE must have the lowest floor of all residential structures (including basement) elevated to at least one foot above the base flood level. All manufactured homes to be placed within Zones A1-30, A, and AE shall 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 one foot 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.

(5) All new construction and substantial improvements of non-residential structures within Zones A1-30, and AE shall:

(A) Have the lowest floor (including basement) elevated to at least two feet above the base flood level; or

(B) Be designed so that below 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.

(C) Where a non-residential structure is intended to be made watertight below the base flood level a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 605(a)(5)(B).

(6) Adequate drainage paths shall be required around structures on slopes to guide floodwaters around and away from proposed structures.

(7) The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.

(8) 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.

(b) Floodway Areas

(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.

Section 606 Application Submission Requirements

(a) Applications for development in areas of special flood hazard shall 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;

(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 Board review under Section 604(d), the application shall include certification by a registered professional engineer or architect demonstrating that the proposed development will not increase base flood elevations more than 0.25 foot. A flood elevation demonstration 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 affects on existing structures during the occurrence of the base flood. A floodproofed structure must meet the floodproofing criteria of this Article;

(5) Where a development proposal is subject to one or more of the requirements set forth in Section 605 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 shall include a certification by a registered professional engineer or architect demonstrating compliance with the elevation requirements. Thereafter, the permittee shall submit a FEMA Elevation Certificate, where applicable, or other certification providing providing as-built certification from a registered professional engineer or architect as to such elevation at the time the permittee applies for the 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; and

(7) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin.

(8) Proposed floodproofing, as required in applicable portions of Section 605, must be supported by a FEMA Floodproofing Certificate.

(b) In addition, the Development Review Board shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; 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; and the relation of the above to the location of the channel, floodway, and base flood elevation;

(2) 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.

Section 607 Procedures

(a) Any applicant for development 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 ten 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.

(b) Prior to issuing a permit for development requiring Board Review under Section 604(d), a copy of the application and supporting information shall 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. §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.

(c) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

(d) Prior to the construction of any farm structures in areas of special flood hazard, the applicant

must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

Section 608 Interpretation of District Boundaries

The Zoning Administrator shall determine the boundaries of any designated area of special flood hazard by scaling distances on the Official Flood Hazard Map. If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment (LOMA) from FEMA shall constitute proof.

Section 609 Base Flood Elevations and Floodway Limits

(a) In Zones A, AE, and A1 – A30 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 shall be used to administer and enforce these regulations.

(b) In Zones A, AE, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

Section 610 Recordkeeping

The Zoning Administrator shall properly file and maintain a record of:

- (a) All permits issued for development in areas of special flood hazard;
- (b) 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 the Special Flood Hazard Area;
- (c) 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;
- (d) All floodproofing and other certifications required under this regulation; and
- (e) All decisions of the Board including variances and violations and all supporting findings of fact, conclusions and conditions.

Section 611 Variances

(a) Variances shall be granted by the appropriate municipal panel only in accordance with 24 V.S.A. Chapter 117 §4469, Article III, Section 308 of this regulation and 24 V.S.A. Chapter 117 § 4424 (E) and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

(b) Any variance issued in the Special Flood Hazard Area will not increase flood heights other than as permitted in this Article. Furthermore, the applicant will 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 \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

Section 612 Warning of Disclaimer of Liability

This ordinance 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 ordinance shall 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 ordinance or any administrative decision lawfully made there under.

Section 613 Validity and Severability

If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

Section 614 Precedence of Ordinance

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence.

Section 615 Certificate of Completion

In accordance with 24 V.S.A. Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area 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 these regulations. 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 ZA shall inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated municipal approvals. If the ZA fails to grant or deny the certificate of completion within 14 days of the submission of the application, the certificate shall 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.

Section 616 Enforcement and Penalties

(a) It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Zoning Administrator, in his discretion, shall institute appropriate action in accordance with the provisions of Section 309 of the Zoning Regulations, and 24 V.S.A. §1974a, §4451, and § 4452, to correct the violation.

(b) 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 shall 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.

(c) If the structure is still noncompliant after the seven-day opportunity to cure has passed, the Zoning Administrator shall 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 shall 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.

(d) Violations of the Accepted Agricultural Practices shall be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. § 4812.

ARTICLE VII PLANNED UNIT DEVELOPMENT (PUD)

Section 700 General Purpose

(a) The purpose of planned unit development (PUD) is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate and efficient use of land, to facilitate the adequate and economical provision of streets and utilities, and to

preserve the natural and scenic qualities of open lands in conformance with the Municipal Plan and this bylaw. PUDs may include any mix of residential and nonresidential uses that are allowed in a district.

(b) Accordingly, the Development Review Board is hereby authorized to modify the area and dimensional requirements of this bylaw simultaneously with the approval of the subdivision plat for a PUD. However, such modifications shall be limited as provided in 24 V.S.A. §4417 and as set forth below.

Section 701 Applicability

(a) Only land development involving a parcel three or more acres in size may qualify for consideration as a PUD. Any residential project involving fewer than three dwelling units shall not qualify. The application of planned unit development bylaws to a proposed development may involve single or multiple properties and one owner or multiple owners.

(b) PUDs are permitted in any district, but all of the separate uses included for a PUD must be permitted in the district for which the PUD is proposed or have received conditional approval, if allowed.

Section 702 Permitted Densities

(a) Pursuant to the provisions in 24 V.S.A. §4417, density limitations in a PUD are established as follows:

(1) The total area of undeveloped land shall be designated to be at least 50 percent of total project land.

(2) For PUDs that are entirely residential, the maximum number of dwelling units allowed is as follows:

(A) For single-family dwellings, divide the total acreage of the parcel, or portion thereof, by the minimum lot size applicable in the district.

(B) For duplexes, divide the total acreage, or portion thereof, by the minimum lot size applicable in the district, then multiply by two.

(C) For multi-family, multiply the total acreage, or portion thereof, by the allowed density in dwelling units per acre for the applicable district identified in Section 504, Table 5.3.

(D) A density bonus may be granted as outlined in this Section.

(3) For PUDs that are entirely nonresidential, the area occupied by structures shall not exceed the maximum coverage for the acreage dedicated to commercial use, including deeded undeveloped land, in the applicable zoning district.

(4) For PUDs that include both residential and nonresidential uses, maximum densities are

determined as follows:

(A) For the residential uses of the site, apply the density calculation in Section 702(a)(2) above to the residential portion of the site acreage, including the residential portion of the undeveloped land. A density bonus may be granted as outlined in this Section.

(B) For the nonresidential uses of the site, apply the density calculation in Section 702(a)(3) above to the nonresidential portion of the site acreage, including the nonresidential portion of the undeveloped land.

(C) For multi-use buildings that include both residential and commercial uses in the same structure, the allowed density for residential dwelling units on the acreage dedicated to the multi-use is calculated as in Section 702(a)(2); the residential use can occupy the same building footprint or maximum coverage as the nonresidential use.

(b) Along the outside boundary of the PUD project, setbacks shall be twice the dimensions established for the district in which the project, or applicable portion of the project, is located. The Development Review Board may, in accordance with the review process contained in Section 704(g), reduce this double setback for a portion of the entire outside boundary, provided the following criteria are met: 1) The setback is not less than the required setback for the district in which the affected portion of the project is located; 2) the applicant shall demonstrate that a lot configuration which utilizes the double setback exclusively does not yield practical building sites and does not meet the general purpose of these PUD bylaws; and 3) adequate screening and landscaping exist or are proposed as required in Sections 301(f)(3) and 705(k). Other than this setback, no other setbacks apply to PUDs.

Section 703 Pre-Application Conference

(a) One or more pre-application conferences among the applicant, Development Review Board, and interested municipal officials may be required to discuss the nature and scope of the development to foster an organized and timely application process.

(b) At least one week prior to the first pre-application conference, the applicant shall submit to the Development Review Board Chairperson the following:

- (1) A draft of a zoning permit application, including the name and address of the landowner and/or applicant and a statement describing the proposed development.
- (2) A development schedule indicating the dates for construction to begin and end for the entire project, as well as for individual phases, if any.
- (3) Quantitative data: total acreage; acreage devoted to buildings, roadways, and utilities; acreage of undeveloped land; number and types of dwelling units; and acreage and building square footage by proposed use.
- (4) One or more sketch plans showing the proposed layout of the project, including lots, buildings, streets, utilities, project boundaries, adjacent land uses, adjacent property owners, the

general location of the property in relationship to the surrounding area, significant environmental features, existing vegetation, and prospective landscaping.

Section 704 Application Procedure

(a) Upon completion of the pre-application procedure, the applicant shall submit a zoning permit application to the Development Review Board, including two copies of the following:

- (1) Final version of the information submitted for the pre-application conference.
- (2) Name and address of owners of record of the adjoining lands.
- (3) One or more site plan maps, of sufficient scale, showing the following:
 - (A) The name and address of the person or firm preparing the map, the scale, and the north arrow;
 - (B) The boundaries of the property, and adjacent land uses and property owners;
 - (C) Existing features, including contours, bodies of water, floodplains, wetlands, aquifer protection areas, existing vegetation, significant wildlife habitat, existing land uses, structures, historic structures, streets, utilities, easements, and deed restrictions;
 - (D) The locations of proposed structures, building lots, land uses, streets, driveways, parking and loading spaces, pedestrian walkways, utility lines, lighting, water supply sources, and sewage disposal areas;
 - (E) The location and features of proposed undeveloped land;
 - (F) Landscaping plans, screening, proposed site grading, and incorporation of existing vegetation and features.
- (4) A statement describing the character and proposed uses of the undeveloped land, including the nature of proposed public uses.
- (5) A statement on the impact of the development on public roads and other public infrastructure such as schools, sewer systems, or public water systems, if appropriate.
- (6) Articles of association, bylaws, or declarations of condominium that relate to provisions for undeveloped land, design controls, land use restrictions, recreation, parking areas, or other facilities used, owned, or maintained in common.
- (7) A description of how the project meets each of the standards in Section 705, including justification for any density bonuses that are requested.
- (8) Any additional information that the Development Review Board may request to assist them in assessing the project's conformance with the standards set forth in Section 705.

(b) Any applicant for a PUD must notify adjacent land owners by certified mail of the nature of the application and the upcoming Development Review Board review at least ten days prior to such review. The applicant must submit copies of certified mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.

(c) Any applicant for a PUD shall, at the time the application is submitted, post a notice of permit application on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until a decision on the site plan review has been rendered by the Development Review Board. This notice shall include the date, time, place, and purpose of the site plan review. The municipality shall provide these notices to the applicant, in accordance with Section 301(d) of this bylaw.

(d) A duly warned public hearing shall be held no sooner than fifteen (15) days following the submission of the formal application. The public hearing requirement may be waived if the Development Review Board deems the project to be minor in nature.

(e) The Development Review Board shall approve, approve with conditions, or deny the project within 45 days after the date the public hearing is closed. Approval may be conditioned upon the receipt of necessary state approvals. Insufficient information provided to the Development Review Board in the formal application or throughout the hearing process may be grounds for denial.

(f) Proof of financial capability to complete required improvements may be required by the Development Review Board, including performance bonds, escrow accounts, or letters of credit.

(g) Any changes that the applicant wants to make to the approved project that involve aspects included in the Development Review Board review and approval or as a result of subsequent state permit reviews and requirements shall require a subsequent review by the Development Review Board under this bylaw.

(h) PUDs that include nonresidential uses or structures must also apply for site plan approval for the nonresidential portions of the project. Application submissions and Development Review Board hearings can occur simultaneously.

(i) PUDs that included uses that are conditional in the district for which they are proposed must also apply for and obtain conditional use approval for those uses.

Section 705 Standards for Review

The following standards must be met for PUD approval.

(a) The project must conform to the density and dimensional requirements set forth in Section 702.

(b) A residential density increase of up to 25 percent may be permitted only if the Development Review Board finds that such increase:

(1) Will not have an undue adverse impact on the capacity of community facilities and services;

- (2) Will not have an undue adverse impact on the character of the area as defined by the Municipal Plan and the zoning district in which the use is located; and
- (3) Is compensated for by substantial efforts to provide one or more of the following: the provision of low- and moderate-income housing; preservation of agricultural land; or the provision of publicly accessible park or recreation land.
- (c) The project is an effective and unified treatment of the development possibilities of the site and makes appropriate provision for preservation of streams and stream banks, steep slopes, wetlands, soils unsuitable for development, agricultural and open lands, unique natural and man-made features, watersheds, wildlife habitat, floodplains, and scenic features.
- (d) Phasing of the development shall be scheduled or phased to ensure that adequate municipal facilities and services will be provided. In the event it is determined that the project will unduly burden municipal facilities or services, the municipality may require contributions to cover costs or dedication of land or interests in land for the purpose of providing or contributing toward the provision of necessary facilities or services.
- (e) If a project is to be served by a public water supply or a public sewer system, a letter from the appropriate municipal department shall be submitted to the Development Review Board certifying that such services can be provided to all habitable units before occupancy.
- (f) If a project is not served by a public water supply system and a public sewer system, approval of the water supply and sewage disposal systems by all state authorities shall be required.
- (g) The proposed PUD shall not unduly burden the school system. The applicant may be required to obtain a letter from the Superintendent of Schools regarding the impact of the project on the school system.
- (h) The proposed PUD shall not unduly burden municipal roads, including intersections and access roads immediately burdened by the project.
- (i) Development access roads shall be of a width, surface, and design adequate for handling proposed traffic, including accessibility for emergency vehicles, school buses, and public transit, if appropriate.
- (j) Adequate pedestrian circulation, which may include sidewalks, maintained trails, or other pathways, shall be provided.
- (k) Adequate landscaping and screening of both buildings and parking areas shall be required in order to protect scenic vistas and the site's natural aesthetic features.
- (l) The proposed PUD must be consistent with the Municipal Plan.
- (m) Land that is not included in building lots, streets, rights-of-way, or utility easements shall be reserved as undeveloped land for recreation, conservation, agriculture, and the enhancement of the natural environment for living. Such undeveloped land shall not be less than 50 percent of the total

project area. Further, the undeveloped land shall:

- (1) Take the fullest advantage of all natural features, such as natural watercourses and drainages, topography, existing trees, outlook, agricultural land, forests, and other features;
- (2) Be in a location, and of a character, size, extent, and shape suitable for the land's intended use;
- (3) Contain no building or development, except one primarily devoted to a purpose for which the undeveloped land is intended, including swimming pool, tennis courts, and similar recreational facilities, and minor incidental buildings connected therewith; and
- (4) Be conveyed to:
 - (A) The municipality, if it agrees to maintain the undeveloped land and any buildings, structures, or other improvements on it; or
 - (B) An association of homeowners or tenants, which adopts and imposes covenants and restrictions on the undeveloped land that adequately provide for its continuing maintenance; or
 - (C) Another suitable organization, which agrees to appropriate conservation restrictions placed on the land which would then be recorded with the deed. Provisions must be made for the organization to adequately provide for the continuing maintenance of the land. The land must be used for its intended purpose.

ARTICLE VIII SIGNS

Section 800 Purpose

These sign regulations are established to achieve the following objectives:

- (1) To ensure businesses, activities, events, or products are provided with sufficient opportunity for identification and promotion;
- (2) To ensure the safety and well-being of the users of streets, roads and highways in the Town and Village of Waterbury;
- (3) To 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) To discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- (5) To protect the natural and historic beauty of Waterbury's townscapes, rural highways, and scenic vistas from indiscriminate outdoor signage.

Section 801 General Regulations

- (a) No sign shall be erected, displayed, moved or changed in size or lighting without a permit from the Zoning Administrator.
- (b) All signs, in both the Town and Village, must conform to the specific conditions as specified by these regulations.
- (c) A sign shall not be permitted for a use, structure, or activity that is in violation of these bylaws.

Section 801.1 Prohibited Signs

- (a) Streamers, pennants, ribbons, spinners, or other similar devices are prohibited.
- (b) Flashing signs, signs containing moving parts, and signs containing reflective elements or florescent paint are prohibited, except for time and temperature signs and barber poles.
- (c) Off-premise signs are prohibited.
- (d) Signs that appear to direct the movement of traffic, or that interfere with, imitate, or resemble any official traffic, directional, route sign, signal, or device are prohibited, except as provided in Section 801.5(b).

Section 801.2 Illumination

- (a) Illumination of signs is to be effectively shielded to prevent beams or rays of light from being directed at any portion of the main traveled way of a public road.
- (b) The illumination of signs shall be by a steady light of only one color.
- (c) Permanent strings of bulbs shall not be permitted. Such bulbs may only be a temporary part of a holiday decoration.

Section 801.3 Placement

- (a) A sign may be mounted on a roof provided it does not exceed fifteen (15) feet in height, does not extend above the highest roof line of the building, and the top of such sign is not more than twenty (20) feet from ground level.
- (b) Permanent signs shall not be drawn or painted on fences or erected, attached, or maintained upon utility poles, trees, or other natural features.
- (c) Free-standing or ground signs shall not be located within twelve (12) feet of a side or rear property lot line or be placed in any right-of-way.

(d) Projecting signs shall not extend into a public vehicular way, or be less than nine (9) feet above a pedestrian way.

(e) Signs should not cover important architectural details, including, but not limited to, arches, sills, moldings, cornices, and transom windows.

(f) No sign shall be erected within a municipal highway right-of-way except with the approval of the legislative body.

Section 801.4 Safety and Maintenance

(a) All signs shall be constructed of durable material, kept in good repair, and be maintained in a clean, neat, and orderly appearance. Should a sign suffer structural deterioration or damage, it must be promptly repaired or removed by the owner.

(b) No sign shall be permitted which prevents a clear and unobstructed view of official signs and approaching or emerging traffic.

(c) No sign shall be erected, relocated, or maintained so as to prevent free entrance to or exit from any right-of-way, driveway, door, window, fire escape, or public street or road.

Section 801.5 Exemptions

The following signs, while subject to all general provisions of this bylaw, may be erected without a permit:

(a) Signs erected, maintained, or administered by the municipality, or by the state of Vermont under 10 VSA Chapter 21, Tourist Information Services, including but not limited to Section 494, Exempt Signs.

(b) Small directional or warning signs, without advertising, displayed for the direction, instruction, or convenience of the public, including signs that identify restrooms, freight entrances, posted areas, etc., with an area not exceeding two (2) square feet. Such signs must be on the premises of the activity served by the sign. A maximum of one directional sign that states, refers to, or mentions the product, service, or name of the business served by that sign is permitted, provided that the purpose of the sign is to indicate the location of the business.

(c) Temporary signs:

(1) **Special-event signs** located in the Town of Waterbury outside of the Village of Waterbury, displayed for not more than four (4) weeks during a one (1) year period and not exceeding sixteen (16) square feet in area, that announce grand openings, fairs, expositions, auctions, lawn sales, campaign drives, or events of a philanthropic, civic, or religious organization. Special-event signs of the same function located in the Village of Waterbury only, displayed for not more than four (4) weeks during a one (1) year period shall not exceed twenty (20) square feet in area. Such signs shall be removed after the completion of said event.

(2) **Political and campaign signs** may be displayed for not more than fourteen (14) days prior to the time of election and shall be removed within seven (7) days following voting day.

(3) **Construction signs** displayed at the construction site for not more than two (2) years not exceeding sixteen (16) square feet in area per face, that announce facts about the building or project under construction, such as the project title, contractor, architect, engineer, etc. Such signs shall not have more than two (2) faces and shall be removed promptly upon completion of the project.

(4) Unilluminated, portable **real estate signs** that advertise the sale, rental, or lease of property. Such signs shall not exceed six (6) square feet in area, have not more than two faces, and be limited to one sign per broker. Real estate signs shall be removed promptly upon the sale or lease of the premises.

(5) Temporary signs for the sale of seasonal agricultural products, provided they do not exceed four (4) square feet in area and are in place for no longer than twelve (12) weeks during a one (1) year period.

(d) Freestanding signs, such as sandwich boards or other moveable signs, providing such signs conform to the following standards:

(1) Freestanding signs for business or civic uses shall not exceed four (4) feet in height nor eight (8) square feet in area. There shall be no more than one such sign per business.

(2) No freestanding sign shall interfere in any way with pedestrian movement or safety on any sidewalk or thoroughfare nor interfere with traffic flow or safety on any public road or right-of-way.

(3) A freestanding sign may only be displayed during the operating hours of and on the same premises as the business or activity it relates to and must be brought indoors or otherwise stored at the close of such business or activity.

(4) No freestanding sign shall be illuminated other than by incidental lighting elsewhere on the site.

(e) Private home identification signs not exceeding one square foot in area.

(f) Signs in or on the rolling stock of a common carrier while in use as a vehicle and signs painted on or attached to registered and inspected vehicles, provided that any such vehicle is used primarily as a vehicle.

(g) Signs indicating the names of buildings, dates of erection, monument citations, commemorative tablets, and the like, when carved into the stone, concrete, or similar material, or affixed to the building with a permanent type of material, such as bronze, and made an integral part of the structure.

(h) Window displays and temporary signs on the inside of any window.

(i) Street banners announcing public events may be permitted by the Municipal Manager's Office. Any banners over public streets or on public property shall be subject to policies established, if any, by the legislative body or Municipal Manager's Office. Such banners shall be limited to community-wide or special events for the benefit of non-profit or civic organizations; may be erected for no more than two (2) weeks prior to the event; and shall be removed within seven (7) days after the event is over.

(j) Signs not in excess of seventy-five (75) square feet erected, maintained, or administered for public school buildings. The total sign square footage for any public school complex shall not exceed 75 sq. ft. Any ground sign shall not exceed 25 sq. ft. (NOTE: This regulation applies to the Village of Waterbury only.)

Section 801.6 Nonconforming Signs

(a) Any sign that was lawfully in place prior to the enactment or amendment of these regulations and does not conform to the standards herein with respect to area, height, setback, location on building, or number of signs permitted, is hereby known as a nonconforming sign.

(b) No nonconforming sign shall be enlarged, extended, moved, or changed in design, unless such changes are to bring the sign into compliance with these regulations.

(c) Any nonconforming sign that has been damaged or destroyed by fire or other accident may be reestablished, providing that such repair or replacement occurs within six (6) months of the date of such damage or destruction.

(d) Any nonconforming sign that has been abandoned for more than six (6) months or identifies a business, activity, or product that has not existed at that location for more than six (6) months must be removed.

Section 801.7 Permitted Signs In All Districts

(a) A home-occupation sign may be permitted in any district. Such signs shall have no more than two (2) faces and shall not exceed two (2) square feet.

(b) One permanent neighborhood identification sign (to identify the entrance to a particular subdivision recognized by a given name) is permitted at its entrance. Such sign shall have no more than two faces, each not exceeding four (4) square feet in area.

(1) If the subdivision has access from more than one entrance, identification signs will be permitted at each entrance unless both entrances are within view, provided that there be no more than two signs.

(2) In lieu of a double-faced sign, two (2) signs attached and angled, with a maximum area of four (4) feet per face, may be approved with suitable landscaping.

(c) Signs placed on or which are a part of an awning are subject to all other sign regulations in this

bylaw.

(d) Additional sign square footage and/or additional ground signs, beyond that permitted above, may be permitted for nonresidential properties of more than five (5) acres by the Development Review Board as a part of a site plan approval. The purpose of this additional sign square footage must be primarily directional or informational, and it shall be located on interior portions of the property and not be primarily visible from public roads.

(e) Additional sign square footage and/or additional ground signs, beyond that permitted above, may be permitted for government-owned properties by the Development Review Board as part of site plan review or such review may be waived pursuant to Section 301(a). The purpose of this additional sign square footage must be primarily directional or informational and may be located in view of public roads.

Section 802 Signs by District

Section 802.1 Signs in the VR, VMR, MIL, TMR, TNC, MDR, LDR, REC, and CNS Residential Districts

(a) There shall be no more than one (1) sign per lot identifying any nonresidential building or use.

(b) No sign shall be larger than four (4) square feet in the VR, MDR, LDR, and CNS Districts and no larger than twenty-five (25) square feet in the VMR, MIL, TMR, TNC, and REC Districts. Appendages will be included in the total allowable area.

(c) Ground signs shall not exceed twelve (12) feet in height, including structural supports and ornamentations.

(d) The placement of signs shall conform with Section 801.3.

(e) Illuminated signs are prohibited in all residential districts except the MDR District.

(f) For signs identifying residential subdivisions or other housing developments, the provisions of 801.7(b) shall apply.

Section 802.2 Signs in the Downtown Commercial (DC), Village Neighborhood Commercial (VNC), Village Commercial (VCOM), Town Commercial (TCOM), Industrial (IND), and Route 100 (RT100) Districts.

(a) The total square footage of signage per property shall be limited to one square foot for each 200 square feet of non-residential floor area. Properties having less than 8,000 square feet of floor area shall be entitled to forty (40) square feet of sign area. The total allowable sign square footage shall be allocated among businesses and signs by the property owner.

(b) Only one (1) ground sign shall be permitted per lot.

(c) Businesses that have property and public buildings fronting on two (2) public roads, or on both sides of a public road wherein exposure to the public is vital to the well-being and identity of said business or public building, may have a second ground sign approved by the Development Review Board.

(d) No sign shall be larger than forty (40) square feet in area in these districts except in the Downtown Commercial and Village Neighborhood Commercial Districts, which shall be limited to twenty-five (25) square feet in area.

(f) A ground sign shall not exceed fifteen (15) feet in height, including structural supports.

(g) Additional sign square footage and/or an additional ground sign(s), beyond that permitted above, may be permitted for nonresidential properties of more than five (5) acres by the Development Review Board as a part of site plan approval. The purpose of this additional sign square footage must be primarily directional or informational, and it shall be located on interior portions of the property and not be primarily visible from public roads.

(h) Signs in the Route 100 District for a subject parcel may be located on an access right-of-way for that parcel. Signage on that access right-of-way shall be part of the total sign square footage allowance for the subject parcel and requires approval by the Development Review Board. The Development Review Board may limit the number of signs located on the Route 100 access right-of-way.

Section 803 Administration

Section 803.1 Application Procedure

(a) Any person wishing to erect, display, move or change in size or lighting any sign in the Town or Village of Waterbury, must first obtain written authorization in the form of a permit from the Zoning Administrator. Application forms are available from the Zoning Administrator or the Municipal Offices and shall have attached thereto such information pertaining to the proposed sign as may be reasonably required.

(b) Within thirty (30) days after receipt of a complete application, the Zoning Administrator shall issue or deny the permit. He or she may consult with the Development Review Board. If the Zoning Administrator determines that the application and proposed sign do not conflict with the provisions of this bylaw, he or she shall issue a permit. If, however, the Zoning Administrator determines that the application does not comply with all of the provisions of this bylaw, he or she shall deny the application. A written explanation for the denial shall accompany the notice of disapproval.

(c) If granted, the permit is issued to the property owner and the property owner is responsible for the sign's compliance with this bylaw. If the applicant is not the property owner, the application must include the signature of the property owner or authorized agent. In so doing, the property owner authorizes the erection of the sign and accepts all responsibility for any non-compliance or violation.

(d) Enforcement and appeal procedures established in Article III shall apply.

Section 803.2 Fees

(a) A fee shall be paid at the time of application to the Town or Village of Waterbury in accordance with the schedule adopted by resolution of the Board of Selectmen the Village Board of Trustees.

(b) An application shall not be considered complete unless all fees are paid.

Section 803.3 Measurement of Sign Area or Height

(a) Except where otherwise noted, the height of any sign shall be measured from where the ground, whether level or sloping, meets the base of the sign. The use of raised beds or earthen fill at the base of the sign shall not be used to determine the ground level (See Figure 1).

(b) Sign measurement for ground and freestanding signs shall be based upon the entire perimeter of the sign display area, which is defined as the smallest rectangle that encloses the sign panels and any interior spaces. (Figure 2).

(c) For a sign consisting of individual letters or symbols attached or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters and symbols.

(d) The area of the main vertical supporting framework shall not be included in the area if such framework is incidental to the display. For projecting signs, the main horizontal supporting framework shall not be included in the measurable area if such framework is incidental to the display.

(e) When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

(f) Decorative elements appended to the structural supports, including, but not limited to, street numbers and names of historic buildings, shall not be included in the calculation of the sign area, so long as they are consistent with the scale and character of the sign.

ARTICLE IX TELECOMMUNICATIONS FACILITIES

Section 900 Purpose

The purpose of this section shall be to regulate the placement, design, construction, removal, and modifications of wireless communication facilities so as to promote the economic viability of the Village and Town and to protect its historic, cultural, natural, and aesthetic resources.

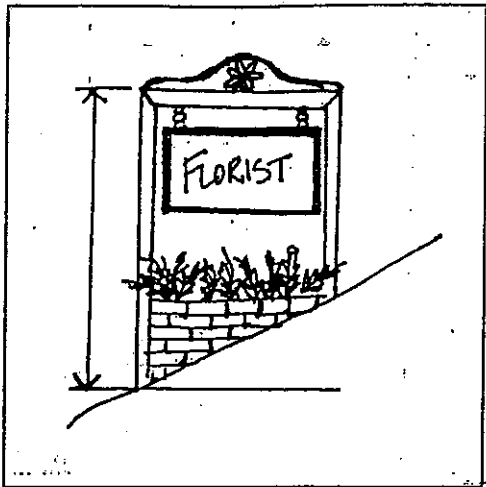


Figure 1. Height measurement

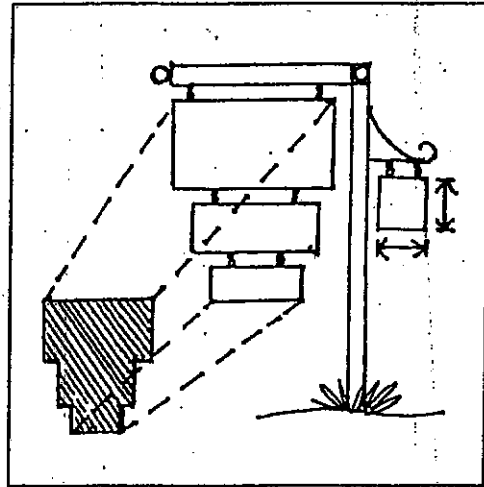


Figure 2. Area measurement

Section 901 Consistency With Federal Law

These regulations are intended to be consistent with Section 704 of the 1996 Telecommunications Act. Accordingly, they shall not prohibit or have the effect of prohibiting the provision of personal wireless communication services; shall not unreasonably discriminate among providers of functionally equivalent services; shall not regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply with the Federal Communications Commission regulations concerning such emissions.

Section 902 Permit Application Requirements

(a) An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Zoning Administrator at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

(b) No permit for the development of a telecommunications tower or facility shall be granted by the Zoning Administrator without both Conditional Use Approval from the Development Review Board and Site Plan Approval from the Development Review Board. Telecommunications towers and facilities may be permitted as conditional uses in all districts except conservation. Telecommunications facilities are deemed to be structures, as defined and used in this bylaw; therefore they require site plan review. All proposed telecommunications facilities, whether new (noncollocated) or collocated, must be reviewed under the requirements of this bylaw.

(c) In addition to information otherwise required in Section 301(b) and elsewhere in this bylaw, applicants for telecommunications towers or facilities shall include the following supplemental information in their filings for site plan approval:

(1) Location Map. The location of the proposed structure on the most recent United States Geological Survey Quadrangle map, showing the area within at least a two-mile radius of the proposed tower site.

(2) A map or sketch of the property proposed to be developed, professionally drawn to scale and with the area to be developed clearly indicated.

(3) A report from qualified and licensed professional engineers that:

(A) Describes the facility height, design, and elevation.

(B) Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.

(C) Describes the tower's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects the tower to accommodate.

(D) Documents steps the applicant will take to avoid interference with any established public safety telecommunications, and includes both an intermodulation study that predicts no likely

interference problems and certification that the study has been provided to the appropriate public safety agencies.

(E) Describes existing coverage. In the case of new tower proposals, the applicant shall demonstrate that existing telecommunications facility sites and other existing structures within Waterbury, in abutting towns, and within a 30 mile radius of the proposed site cannot reasonably be modified to provide adequate coverage and/or adequate capacity to the Town of Waterbury.

(F) Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage, and provides a map that describes coverage of the existing and proposed facilities.

(G) Describes the output frequency, number of channels and power output per channel for each proposed antenna.

(H) Includes a written five-year plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town and Village.

(I) Demonstrates the tower's compliance with the municipality's setbacks for towers and support structures.

(J) Provides proof that at the proposed site the applicant will be in compliance with all FCC regulations, standards, and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards, and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The Development Review Board may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards, and requirements on an annual basis at unannounced times. The Development Review Board may allocate to the applicant those expenses incurred or authorized by it in retaining independent engineers to perform these evaluations.

(4) Commitment to Share Space. A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this bylaw.

(5) Existing Structures. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Zoning Administrator at the time an application is submitted).

(6) Environmental Assessment. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.

(7) Act 250. A copy of the application or draft application for an Act 250 permit, if applicable.

(8) Vicinity Map. A map showing the entire vicinity within a 2500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. The map shall show the property lines of the proposed tower site parcel and all easements or rights-of-way needed for access from a public way to the tower.

(9) Proposed site plans of the entire development, professionally drawn to scale, showing all improvements including landscaping, utility lines, guy wires, screening and roads.

(10) Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

(11) Where the proposed site is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.

(12) Construction sequence and time schedule for completion of each phase of the entire project.

(13) Any additional information requested by the Development Review Board.

(d) Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet. The permit application shall be signed under the penalties of perjury.

Section 903 Conditional Use Review Criteria

(a) No telecommunications facility shall be erected, constructed, or installed without first obtaining a conditional use permit from the Development Review Board. A conditional use permit is required for new tower construction (or major modification of an existing tower) and for new telecommunications facilities (or major modification of existing facilities) to be mounted on a tower or structure.

(b) In acting on the conditional use permit application, the Development Review Board shall proceed in accordance with Section 303 of the bylaw of the Town and Village of Waterbury. Prior to granting such approval, the Board shall make affirmative findings for each of the criteria given in Section 303 of this bylaw.

Section 904 Project Requirements [Tower and Antenna Design Requirements]

(a) In addition to the site plan review criteria listed in Section 301, the Development Review Board shall consider the following additional review criteria:

(1) Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for their intended use and public safety.

(2) Bulk, Height, Glare. All telecommunications facilities, including towers, antennas and any necessary support structures shall be designed in such a manner as to minimize the visual impact of height, mass, and guy wire supports. Materials utilized for the exterior of any structure shall be of a type, color, and style so as to minimize glare and to blend into the surrounding environment, except in cases in which the Federal Aviation Authority, state or federal authorities have dictated color.

(3) Height Limitations. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures in all districts shall not exceed twenty (20) feet above the average height of the tree line within one hundred (100) feet of the base of the tower. Notwithstanding the above, additional height may be approved upon a finding by the Development Review Board that the additional height is necessary in order to provide adequate coverage, or to accomplish collocation as outlined in Section 1.7, and that the additional height will not have an undue visual impact on the scenic character or appearance of the area.

(4) Setbacks and Fall Zones. All wireless communications facilities shall comply with the setback provisions of the zoning district in which the facility is located. There shall be no variances for fall zones except, if an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a telecommunications tower, a fall zone shall not be required.

(5) Landscaping and Screening. Ground-mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six (6) feet and shall have the potential to grow to a height of at least fifteen (15) feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

(6) Lighting. Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular tower because of its height. Any lighting required solely as a result of height may be subject to review by the Town. Heights may be reduced to eliminate the need for lighting or another location selected. All tower lighting shall be shielded to minimize glare and impact on neighboring properties.

(7) Fencing and Signage. The area around the tower and communications equipment shall be completely fenced for security to a height of six (6) feet and gated. The use of razor wire is not permitted. A sign no greater than two (2) square feet stating the name of the facility's owner and a 24-hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs and the federal tower registration plate, where applicable, may be posted on the fence or as required to meet federal requirements. No commercial signs or lettering shall be placed on a tower.

(8) Noise. Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

(9) Protection of Scenic Ridges and Hillsides. Towers shall, when possible, be sited off ridge lines and where their visual impact is least detrimental to scenic areas. In determining whether the proposed tower will have an undue adverse visual impact on the scenic beauty of a ridge or hillside, the Development Review Board shall consider, among other things, the following:

- (A) 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;
- (B) The frequency of the view of the proposed tower by the traveling public;
- (C) The degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
- (D) Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
- (E) The distance of the tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
- (F) 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
- (G) The sensitivity or unique value of the particular view affected by the proposed tower.

To assist the Development Review Board in its review, the Development Review Board may require the applicant to fly or raise a three-foot diameter balloon at the maximum height of the proposed facility at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicant shall provide photographs of the balloon test taken from at least four vantage points previously designated by the Development Review Board.

The Development Review Board may, at its sole discretion, waive any of the requirements of this subsection [(905(a)(9))] for the purpose of approving the development of a wireless communications facility utilizing innovative siting techniques that camouflage or conceal the presence of antennas or towers.

(10) Access Roads and Above-Ground Utilities. Where new telecommunications facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow the contours of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area.

Section 905 Collocation Requirements

(a) An application for a new (non-collocated) telecommunications tower shall not be approved unless the Development Review Board finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

(1) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the state of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

(2) The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility

as documented by a qualified engineer licensed to practice in the state of Vermont and such interference cannot be prevented at a reasonable cost.

(3) The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements.

(4) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.

(5) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the state of Vermont.

(6) Aesthetic considerations make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

(7) There is no existing or approved tower in the area in which coverage is sought.

(8) Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

(b) Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

Section 906 Amendments to Existing Telecommunications Facility Permit

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

(1) A change in the number of buildings or facilities permitted on the site;

(2) Changes in technology used by the telecommunications facility; or

(3) An addition or change of any equipment or an increase in the height of the tower, including profile of additional antennas, not specified in the original application.

Section 907 Temporary Wireless Communication Facilities

(a) Any telecommunications facility designed for temporary use is exempt from the provisions above, but is subject to the following:

(1) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town or Village of Waterbury.

- (2) Temporary telecommunications facilities are permitted for no longer than five days use during a special event.
- (3) The maximum height of a temporary facility is fifty (50) feet from grade.
- (4) Temporary facilities must comply with all applicable portions of these regulations.

Section 908 Interference With Public Safety Telecommunications

No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during that testing process.

Section 909 Continuing Obligations

Upon receiving a permit, the permittee shall annually, by January 15, document that the facility is in compliance with all FCC standards. The permittee shall provide a list of the most recent RFR readings at the site, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.

Section 910 Removal of Abandoned Antennas and Towers

(a) The owner of a facility/tower shall annually, by January 15, file a declaration with the Zoning Administrator certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and will be considered abandoned. An owner who has failed to file an annual declaration with the Zoning Administrator by January 15 may, by February 15, file a declaration of use or intended use and may request the authorization to continue use of the facility/tower.

(b) At the time of removal, the facility site shall be remediated such that all telecommunications facility improvements that have ceased to be utilized are removed. If all facilities on a tower have ceased to operate, the tower shall also be removed, and the site shall be remediated. Existing trees shall only be removed if necessary to complete the required removal of the telecommunications tower/facility.

(c) Abandoned or unused towers shall be removed as follows:

(1) The owner shall remove abandoned or unused towers and associated facilities within 180 days of cessation of operations at the site unless the Development Review Board approves a time extension. In the event the tower is not removed within 180 days of the cessation of operations at

a site, the Zoning Administrator shall issue a notice of abandonment to the last known owner/operator of the facility. If the tower is not removed within 90 days of the issuance of such notice, the Town or Village may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or facility owner or both. As a condition of approval the Development Review Board may require the applicant to provide a financial surety bond payable to the Town or Village of Waterbury (as appropriate) to cover the costs of removal of the telecommunications facility and the remediation of the landscape, should the facility be deemed abandoned.

(2) Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.

Section 911 Maintenance of Telecommunications Facilities Insurance

The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities. All facility sites shall be properly fenced and identified by signage that indicates presence of RFR and any other appropriate warnings required by permit conditions.

Section 912 Fees

The Select Board shall establish a schedule of fees to cover permitting and monitoring costs. Fees may include the reasonable costs of an independent technical assessment of the application.

Section 913 Enforcing Agent

The Zoning Administrator shall be the agent to enforce the provisions of this bylaw.

Section 914 Severability

If a court of competent jurisdiction holds any portion of this bylaw unconstitutional or invalid, the remainder of this bylaw shall not be affected.

ARTICLE X RIDGELINES, HILLSIDES, STEEP SLOPES

Section 1000 Purpose

(a) The purpose of the Ridgeline/Hillside/Steep Slope (RHS) Overlay District is to regulate development in higher elevation areas commensurate with community goals, as expressed in the Municipal Plan. The regulations for the RHS Overlay District supplement the regulations of any underlying district that otherwise apply. When the regulations of the RHS Overlay District and of the underlying district conflict, the more restrictive provision(s) shall apply.

Section 1001 Applicability

(a) This Article shall apply to all development and redevelopment of properties in the Town of Waterbury that are located in the RHS Overlay District, which comprises all lands at or above 1,200 feet in elevation above mean sea level (hereinafter “FIE”).

(b) Development at or above 1,200 FIE but below 1,500 FIE shall be considered “minor” development. Development and pre-development site preparation at or above 1,500 FIE, and clearcutting at or above 1,500 FIE that is not a prescribed treatment activity in an approved forest management plan for property enrolled in the Use Value Appraisal Program for Forest Land pursuant to 32 VSA §§3752-3763 shall be considered “major” development.

(c) The Use Regulation Table in Article V (Table 5.1) shall apply to the RHS Overlay District, except that uses that are permitted in the underlying zoning districts, as set forth the Use Regulation Table, shall be treated as conditional uses in the RHS Overlay District.

(d) The following activities shall not be subject to review under this article:

- (1) Residential additions, accessory structures, camps whose combined footprint is less than or equal to 800 square feet; and
- (2) Structures that have been approved by the appropriate municipal panels before the effective date of this article (3/14/2006).

Section 1002 Procedures

(a) No zoning permit for any land development within the RHS Overlay District shall be issued without the prior approval of the Zoning Administrator and the Development Review Board, in accordance with the following procedures and standards.

(1) **Pre-Application Review:** The applicant may schedule a meeting with the Zoning Administrator to review the proposed site development plan(s), prepared in accordance with Section 1003. The purpose of the pre-application review is to evaluate the site development plans, including the location and general character of the site; to identify potential development constraints and evaluate the suitability of the project in light of these constraints; to consider whether the proposed development should be classified as “minor” or “major”; and to provide the applicant with clear direction as to the submission materials needed for review.

(2) **Project Classification and Notification of Submission Requirements:** No later than 15 days after submission of the complete application, the Zoning Administrator shall classify the development project as “minor” or “major,” pursuant to Section 1001(b). The Zoning Administrator may seek the advice of the Development Review Board and the Municipal Planner before making his/her determination of project classification. The Zoning Administrator shall notify the applicant in writing of the determination and shall also identify any supplemental materials required as part of the application, pursuant to Section 1003.

(3) **Reconsideration of Classification or District Boundaries:** In the event that an applicant does not concur with the Zoning Administrator’s determination that the proposed development

project is minor or major or that it falls within the RHS Overlay District, the applicant may appeal the decision to the Development Review Board in accordance with Section 307(a). The Development Review Board shall determine whether such proposed development is minor or major or is located within the RHS Overlay District. The applicant requesting such determination shall bear the burden of proof.

(4) **Review of Minor and Major Development Projects:** Upon submittal of the final site development plan, the Development Review Board shall schedule a public hearing in accordance with 24 V.S.A. Chapter 117 [§4464]. The Development Review Board may require additional supplemental materials and may continue the public hearing. After reviewing the application, the Development Review Board shall act to approve, approve with conditions, or disapprove any such site development plan within forty-five (45) days after the date of the adjournment of the public hearing, and failure to so act within the forty-five (45) day period shall be deemed approval. Upon approval of the application by the Development Review Board, the Zoning Administrator shall issue a zoning permit pursuant to all applicable provisions of this bylaw.

Section 1003 Submission Requirements

(a) **Minor Development Projects—Basic Submission Requirements:** The applicant shall submit a site development plan and all other information as required pursuant to Section 301(b), with the exception of a grading plan unless otherwise determined by the Development Review Board. The Development Review Board may request additional information it deems necessary and may visit the site to gather information.

(b) **Major Development Projects—Supplemental Submission Requirements:** The applicant shall file the information required for minor development applications. The Zoning Administrator or Development Review Board may require supplemental materials prior to or during the review under Section 1004, including but not limited to:

(1) **Grading Plan:** Existing and proposed contours of the land to be cleared and to a distance of fifty feet beyond the cleared areas. The contours shall be field-generated and be set at intervals of no greater than five feet. The plan shall show all clearing limits and the location of all existing and proposed retaining walls over four feet in height.

(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 be also be required.

(3) **Stormwater Drainage/Erosion Control Plan:** A stormwater drainage and erosion control plan shall be submitted for projects where the average slope of the site is 15 percent or greater or there are perennial streams and waterways located on the site.

(4) **Landscape Plan:** Existing vegetation and proposed landscaping and clearing plans showing proposed type, size, and location of existing woody vegetation to be retained and installed, particularly for screening purposes, and describing the specific measures to ensure the protection, survival and, if necessary, replacement of designated trees during and after the construction on or changes to the site.

- (5) Access Plan: A plan showing existing and proposed roads, rights-of-way (ROW), parking areas, and other relevant information (e.g., paving materials, clearing limits, slopes, etc.).
- (6) Natural Features: Existing ponds, streams, rivers and other water features; critical wildlife habitat, unique or fragile resources, and Class I and Class II wetlands located within and up to fifty (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.

Section 1004 Standards of Review

(a) Development of lands identified within the RHS Overlay District shall comply with all other applicable regulations, including conditional use review standards, within this bylaw and with the standards of review set forth in the following subsections.

(b) Minor Development: Minor development projects shall be subject to conditional use review, as set forth in Section 303, and all other applicable regulations.

(c) Major Development: In addition to the review applicable to minor development projects, the Development Review Board shall find that the application for a major development project complies with all of the following standards:

(1) Screening: Forest cover shall be maintained to the greatest extent possible. If there is to be tree-clearing for views from the site, it shall be done so as to create view corridors. The Development Review Board may limit the amount of tree-clearing and require the planting of additional trees or other vegetation in order to assure adequate screening, and the Board may 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, shall use or share existing accesses and rights-of-way where feasible, and shall follow existing contours and linear features (e.g., tree lines, stone walls) where possible. In addition, they shall be located to:

- (A) Minimize stream and wetland crossings;
- (B) Minimize impacts on steep slopes; and
- (C) 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 shall 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 the aesthetic character and wildlife value of the RHS Overlay District. The location of proposed or potential structures may be restricted to ensure that development:

- (A) Is minimally visible, as defined in this bylaw;
- (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 shall not break the skyline; and
- (E) Is located at or near the edge of existing and new clearings and fields or in the interior of existing wooded areas.

(4) Exterior Lighting: The off-site visual impacts of proposed exterior lighting shall be minimized. All exterior lights shall be shielded and downcast. The use of reflective surfaces and outdoor lighting fixtures more than 15 feet above the ground shall be minimized. Bollard, low-post lighting and low-level, indirect lighting is recommended. Spot or flood lights are prohibited.

(5) Clearcutting and Pre-Development Site Preparation: The proposed clearcutting and all harvesting activities associated with it shall comply with "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont," as published by the Vermont Department of Forests, Parks and Recreation, effective August 15, 1987, (as may be amended from time to time) and all other applicable regulations.

(6) Natural Resources: The proposed development will be designed and maintained so that there is no undue adverse impact on, or undue fragmentation of, critical 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 shall 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.

Section 1005 General Provisions

(a) The Town may use U.S. Geological Survey maps drawn at no greater than 20' contour intervals; geographic information system maps and data meeting the standards of the Vermont Center of Geographic Information; a geographic positioning system (GPS) unit; or other means which are greater to or equal in accuracy to determine elevations within the RHS Overlay District.

(b) In the event of a dispute concerning boundaries, elevations, measurements or land development, the burden of proof shall be on the landowner.

(c) There shall be no exemptions from the provisions of Section 1001, set forth above.

(d) Where a landowner conducts pre-development site preparation activities at or above 1,500 FIE prior to obtaining a permit under this article, the Development Review Board may limit development to the non-impacted portion of the property and may require the site to be restored

to its pre-development state.

(e) If the Board determines that no conditions or safeguards it may reasonably impose would ensure compliance with this Article, the Board shall disapprove the application.

ARTICLE XI DOWNTOWN DESIGN REVIEW OVERLAY DISTRICT

Section 1100 Purpose

(a) In accordance with the 24 V.S.A. §4414(1)(E), the Downtown Design Review Overlay District is established to protect and enhance architectural and historic resources within the district, to maintain and enhance property values, encourage a consistently high standard of design in new construction and renovations to support a pleasant, pedestrian-oriented village center, and strengthen the community's economic vitality and the downtown district's historic function as a center for commerce, industry, government, and housing.

Section 1101 Establishment of District Boundaries

(a) The Downtown Design Review Overlay District is divided into two sub-districts, the Historic/Commercial Sub-District, and the Mixed-Use Sub-District, which are differentiated by the presence of distinct historic resources, visual character, settlement patterns, and mix of land uses. The boundaries of each sub-district are depicted on the Waterbury Village Zoning Map: Downtown Design Review Overlay District.

Section 1102 Applicability

(a) The applicability provisions as set forth in Section 301(a) shall apply to development in the Downtown Design Review Overlay District, except that one- and two-family, non-owner-occupied dwellings shall be subject to design review under this article. No structure located in the Downtown Design Review Overlay District and subject to review under this article may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without design review approval of the Development Review Board in accordance with the following procedures, requirements, and standards.

Section 1103 Dimensional Standards, Density, and Uses

(a) Downtown Design Review Overlay District standards shall apply to all permitted and conditional uses allowed in the underlying zoning districts. Such uses remain subject to all applicable regulation of the underlying zoning district. If the regulations of the Downtown Design Review Overlay District and of the underlying district conflict, the more restrictive provision(s) shall apply.

Section 1104 Exemptions

(a) The following activities shall not be subject to review under this section:

- (1) A change in use or type of occupancy that does not involve any of the following: any intensification or expansion of use, any alteration to the exterior of a building, or any parking lot or driveway construction;
- (2) Routine maintenance of existing structures, including repairs and changes in paint color, siding, and roofing, provided such maintenance does not result in the enlargement of the structure or a significant alteration of the building façades (such as the modification of windows and doors, the removal of architectural features, or a change in the roof line), and
- (3) Any other project that the Development Review Board deems to be minor in character.

Section 1105 Review Procedure

(a) Applications for development within the Downtown Design Review Overlay District shall be reviewed concurrently with applications for site plan review in accordance with Section 301 of this bylaw. In the event the proposed development does not require site plan approval, the Development Review Board shall approve or disapprove an application of a project within forty-five (45) days from the close of the public review.

Section 1106 Application Requirements

(a) In addition to the information required under Section 301(b), applications for design review approval shall include the following:

- (1) Proposed architectural elevations (for each exterior wall) showing door and window types and placement, and other exterior details;
- (2) A description of all materials to be used on the exterior of any building and, upon Development Review Board request, samples of materials;
- (3) Photographs of the existing building(s) on the site and of buildings on adjacent and facing parcels;
- (4) A brief narrative describing the project;
- (5) For applications involving the demolition of a structure listed on the National Register of Historic Places, a report that includes a structural assessment of the building, including estimated costs for stabilization and renovation, and which documents that the applicant and/or landowner has explored available alternatives to the proposed demolition and found such alternatives to be infeasible; and

(6) Other information as required by the Development Review Board.

(b) For minor changes to the exterior of the structure, the Development Review Board may waive one or more of the application requirements set forth above.

Section 1107 Demolition of Historic Buildings

(a) Development Review Board approval is required for the demolition of any building or structure (including residential) in the Downtown Design Review Overlay District that is listed on the National Register of Historic Places. The Development Review Board shall approve the demolition if it finds that the demolition will satisfy the requirements of Section 411, and that:

(1) The structure is determined to be a deterrent to a major improvement that will be a clear and substantial benefit to the municipality,

(2) The retention of the structure would cause undue financial burden to the owner (the owner bearing the burden of proof), or

(3) The retention of the structure would create or pose a risk to the health, safety, or welfare of the structure's occupant(s) or the general public.

(b) In approving a proposed demolition, the Development Review Board may require that the applicant provide, prior to demolition, detailed documentation of the structure's historic and architectural features, such documentation to be part of the permanent zoning records. Such documentation should meet the requirements of the Vermont Division for Historic Preservation for documenting historic buildings.

Section 1108 Design Review Standards

(a) Prior to granting design approval, the Development Review Board shall find that the proposed development meets the following standards, where applicable:

(1) Historic Structures (applying to all structures listed on the National Register of Historic Places):

(A) Original materials or materials typical of the architectural style of the structures shall be preserved or replaced with like materials to the extent feasible and appropriate.

(B) Historic building features shall be preserved or replicated to the extent feasible and appropriate.

(2) Historic/Commercial Sub-District:

(A) New building designs shall reinforce historic streetscape patterns, including orientation and setbacks. Building sites, including road and pedestrian networks, shall be designed in a manner

that is integrated and compatible with adjoining parcels and areas.

(B) New buildings shall maintain overall height, size, massing, scale, and proportions compatible with those of buildings in the vicinity. New buildings shall incorporate building forms, lines, roof shapes, features, and materials compatible with those of buildings in the vicinity, but are not required to conform to a particular architectural style.

(C) New additions should be designed to complement and be compatible with, rather than detract from or obscure, the original structure.

(D) Project design shall reinforce a pedestrian streetscape through the provision, where appropriate, of such features as connecting walkways, landscaping and street trees, the incorporation of architectural features such as porches, store fronts and windows, and pedestrian-scaled street furniture and lighting.

(E) On-site utilities shall be buried and utility boxes shall be screened from public view if the utilities along the street serving that structure are also buried.

(F) Buildings, or portions thereof, having eaves heights of twenty (20) feet or less above ground level shall incorporate moderately to steeply pitched roofs, unless the Development Review Board determines that another roof type is appropriate.

(3) Mixed-Use Sub-District:

(A) Building sites, including road and pedestrian networks, shall be designed in a manner that is integrated and compatible with adjoining parcels and areas.

(B) A proposed project located next to or facing a historic structure shall incorporate similar or complementary building features to ensure the project's compatibility with its immediate surroundings, so as not to diminish the architectural value of the historic structure.

(C) New buildings shall be oriented to front upon, and relate both functionally and visually to, primary access roads. On-site parking shall be situated to the rear or on the sides of structures, where feasible and appropriate.

(D) The primary facades of principal structures shall be clearly defined through the placement of one or more prominent entryways, pedestrian walkways, or landscaping features.

(E) Building facades and rooflines shall be designed so as to reduce the perceived mass, scale, and uniform impersonal appearance of large buildings and additions, and to provide visual interest.

(F) Clearly defined pedestrian walkways shall be provided through parking areas, between buildings, and from public sidewalks to the site.

Section 1109 Waiver

(a) The Development Review Board may waive specific design review provisions where it determines there is good cause to do so. When deciding whether to grant a waiver, the Development Review Board may take into consideration the nature and degree of the exception requested, the financial implications of adherence to the provision(s), and other practicable approaches to the project.

ARTICLE XII SUBDIVISIONS

Section 1201 Authority and Review of Subdivisions

- (a) Pursuant to 24 V.S.A. § 4418, the Development Review Board shall have the authority to review and approve, approve with conditions, or deny an application for the subdivision of land in accordance with the standards set forth in Article XII.
- (b) All applications for land division shall be reviewed by the Development Review Board under Section 1202, unless exempted under Section 1203.
- (c) The Town and Village of Waterbury have elected, as provided in 10 V.S.A. § 6001(3)(A)(iii), to have Act 250 jurisdiction apply to improvements for commercial and industrial purposes involving more than one acre of land.

Section 1202 Review Criteria

- (a) Prior to granting approval for any subdivision of land into four (4) or more parcels, including the original parcel, within a continuous five (5) year period, the Board must find that the proposed subdivision conforms to the following standards, in addition to the relevant criteria in Section 401, Dimensional Requirements, and Section 504, General Dimension, Location, and Height Requirements:
 - 1. The proposed subdivision will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it including public roads and highways, municipal water or sewer systems, public schools, and municipal fire protection services.
 - (A) The Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board, or other municipal officials regarding relevant facilities.
 - 2. The proposed subdivision will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located.
 - 3. The proposed subdivision will not result in undue adverse impact 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. Will not have an undue adverse impact on aesthetics, the scenic or natural beauty of the area, identified scenic resources, or historic sites.
 5. Will not have an undue adverse impact on significant natural resources.
- (b) Any division of land in the Route 100 District (RT100) shall conform to the following criteria in addition to the relevant criteria in Section 401, Dimensional Requirements, and Section 504, General Dimension, Location, and Height Requirements:
1. The standards set forth for planned unit developments in Section 705(c)-(l), and Subsections 705(m)(1)-(3) of this bylaw.
 2. The standards set forth in Section 301(h)-(j), including, but not limited to, the following:
 - (A) A minimum of 25 percent of the Route 100 road frontage shall be reserved as undeveloped land with a minimum depth of 250' measured perpendicular to Route 100.
 - (B) A continuous strip shall be maintained between the street line and the balance of the lot. This strip shall extend from the street line to either 75' from the road centerline or 25' from the street line, whichever is greater. The required strip may not include any structure or parking area.
 - (C) Only one access curb cut is permitted, unless the Development Review Board finds that more than one is required for safety or effective traffic flow.
- (c) Any division of land in the Ridgeline/Hillside/Steep Slope (RHS) Overlay District shall conform to the following criteria in addition to the relevant criteria in Section 401, Dimensional Requirements, and Section 504, General Dimension, Location, and Height Requirements:
1. The standards set forth for development in Article X.
- (d) In reviewing a subdivision under this Section, the Development Review Board may attach reasonable conditions and safeguards with respect to, at a minimum, the following:
1. Reduction in curb cuts, change in location or number of access points.
 2. Modification to excessively narrow or irregularly shaped lots (e.g., with curves, jogs, dog-legs, etc.), unless warranted due to topographic constraints. Accordingly subdivided lots, to the extent feasible, shall meet the following standards:
 - (A) The ratio of a lot's depth to its width (frontage) shall not exceed five to one (5:1) unless the Board finds there is good cause otherwise.

- (B) Side lot lines shall be at right angles to straight streets and radial to curved streets, as appropriate, considering the locations of land contours, streams, wetlands and other topographic features.
 - (C) Corner lots shall meet frontage and front yard setback requirements along each street as required under Section 401.
3. Preservation of existing trees or other vegetation and/or planting of additional trees or other vegetation may be required to provide visual screening of the proposed development, or to otherwise soften and/or minimize any undue adverse impact on natural features or resources including the visual impact of the development as viewed from public streets and places.
 4. Modifications to setbacks from property boundaries or significant natural resources in order to prevent undue adverse impact on natural resources or adjoining properties.

Section 1203 Exemptions

- (a) The following subdivisions shall be exempt from review under Section 1202 and subject to review under Section 1203(c):
 1. A boundary line adjustment that affects fewer than five (5) lots shall be exempt from review under Section 1202.
 2. Any division of land that is part of a PUD and has been approved in accordance with the procedures set forth in Sections 700–705.
- (b) The following subdivisions shall be exempt from review under Section 1202 if they involve the division of land outside the Route 100 District (RT 100) and outside the Ridgeline/Hillside/Steep Slope (RHS) Overlay District:
 1. Any division of land into fewer than four (4) total parcels, including the original parcel, not receiving subdivision approval under these bylaws within the previous five (5) years.
- (c) A subdivision or boundary line adjustment that is exempt from Section 1202 shall be reviewed by the Zoning Administrator, pursuant to 24 V.S.A. § 4464(c), under the following criteria:
 1. The relevant criteria in Section 401, Dimensional Requirements,
 2. Section 504, General Dimension, Location, and Height Requirements.

A subdivision application subject to review under Section 1203(c) shall include a draft subdivision plat showing in reasonable detail all existing and proposed parcel boundaries, and all easements required for access to parcels that do not front on a public vehicular way.

Section 1204 Recording

- (a) In accordance with Section 300(i), a plat must be recorded in the Waterbury Land Records for all land subdivisions or boundary line adjustments subject to Article XII. The plats shall be prepared and recorded in accordance with 27 V.S.A. § 1403. Plats approved pursuant to Section 1202 shall be signed by the Chair of the Development Review Board. Plats approved pursuant to Section 1203 shall be signed by the Zoning Administrator. The plat shall be recorded within 180 days of the issuance of the zoning permit for the land subdivision.
- (b) In accordance with 24 V.S.A. § 4463(b)(1), the Zoning Administrator may extend the date for filing the plat by an additional 90 days, if, and only if, final local or state permits or approvals are still pending.

ARTICLE XIII INTERIM CAMPUS OVERLAY DISTRICT

Note: This Article XIII is Interim Zoning Regulations that were approved by the Trustees for the Village of Waterbury on Wednesday, February 27, 2013. The purpose of these Interim Campus Overlay Bylaw Amendments is to help implement the Long-term Community Recovery Plan following Tropical Storm Irene, and to promote the general welfare of the Village of Waterbury. These proposed Interim Bylaws will facilitate re-development of the State Office Complex, including the parcels planned for sale and re-development by other organizations.

Section 1300 Purpose

- (a) The Campus Overlay District is established to protect and enhance architectural and historic resources within the district; protect and enhance the character of the area as described in the Municipal Plan; encourage a consistently high standard of design in new construction and renovations to support a pleasant, pedestrian-oriented area; maintain and enhance property values; and strengthen the community's economic vitality and the district's historic function as a center for commerce, industry, government, and housing.
- (b) Accordingly, the Development Review Board is hereby authorized to modify the area and dimensional requirements of this bylaw simultaneously with the approval of the subdivision plat or other development in the Campus Overlay District. However, such modifications shall be limited as set forth in Section 1303 below.

Section 1301 Establishment of District Boundaries

- (a) The boundaries of the Campus Overlay District are depicted on the Waterbury Village Zoning Map: Campus Overlay District.

Section 1302 Applicability

- (a) The applicability provisions as set forth in Section 301(a) shall apply to development in the

Campus Overlay District. No structure located in the Campus Overlay District and subject to review under this article may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without review approval of the Development Review Board in accordance with the following procedures, requirements, and standards.

Section 1303 Dimensional Standards, Density, and Uses

(a) The dimensional standards in the Campus Overlay District shall be as follows: Along the outside boundary of the Campus district, the setback shall be 15 feet for new structures and new additions to existing structures, and 5 feet for existing structures. Within the Campus Overlay District no other setbacks shall apply. The minimum lot size shall be 10,000 square feet. The maximum height shall be 50'. The maximum coverage shall be 30%.

(b) The density standards in the Campus Overlay District shall be as follows: For the multi-family use the maximum density shall be 30 dwelling units per acre and 30 dwelling units per building.

(c) The Campus Overlay District standards shall apply to all permitted and conditional uses allowed in the underlying zoning districts. Such uses remain subject to all applicable regulation of the underlying zoning district. If the regulations of the Campus Overlay District and of the underlying district conflict, the more restrictive provision(s) shall apply.

Section 1304 Review Procedure

(a) Applications for development within the Campus Overlay District shall be reviewed concurrently with applications for site plan review in accordance with Section 301 of this bylaw. In the event the proposed development does not require site plan approval, the Development Review Board shall approve or disapprove an application of a project within forty-five (45) days from the close of the public review.

Section 1305 Application Requirements

(a) In addition to the information required under Section 301(b), applications for Campus Overlay District review approval shall include the following:

(1) Proposed architectural elevations (for each exterior wall) showing door and window types and placement, and other exterior details;

(2) A description of all materials to be used on the exterior of any building and, upon Development Review Board request, samples of materials;

(3) Photographs of the existing building(s) on the site and of buildings on adjacent and facing parcels;

(4) A brief narrative describing the project;

(a) Prior to granting approval under this Chapter, the Development Review Board shall find that the proposed development meets the following standards, where applicable:

(1) Historic Structures:

(A) Original materials or materials typical of the architectural style of the structures shall be preserved or replaced with like materials to the extent feasible and appropriate.

(B) Historic building features shall be preserved or replicated to the extent feasible and appropriate.

(2) New Buildings and Additions to Existing Structures:

(A) New building designs shall reinforce historic streetscape patterns, including orientation and setbacks. Building sites, including road and pedestrian networks, shall be designed in a manner that is integrated and compatible with adjoining parcels and areas.

(B) New buildings shall maintain overall height, size, massing, scale, and proportions compatible with those of buildings in the vicinity. New buildings shall incorporate building forms, lines, roof shapes, features, and materials compatible with those of buildings in the vicinity, but are not required to conform to a particular architectural style.

(C) New additions should be designed to complement and be compatible with, rather than detract from or obscure, the original structure.

(D) Buildings, or portions thereof, having eave heights of twenty (20) feet or less above ground level shall incorporate moderately to steeply pitched roofs, unless the Development Review Board determines that another roof type is appropriate.

(3) All development shall comply with the following standards:

(A) Project design shall reinforce a pedestrian streetscape through the provision, where appropriate, of such features as connecting walkways, landscaping and street trees, the incorporation of architectural features such as porches, store fronts and windows, and pedestrian-scaled street furniture and lighting.

(B) On-site utilities shall be buried and utility boxes shall be screened from public view if the utilities along the street serving that structure are also buried.

(C) Clearly defined pedestrian walkways shall be provided through parking areas, between buildings, and from public sidewalks to the site.

ARTICLE XIII DEFINITIONS

Section 1200 Definitions

(a) Except where specifically defined herein, all words used in this bylaw shall carry their customary meanings. Words used in present tense include the future, and the singular includes the plural; the word "lot" includes "plot," the word "building" includes "structure," the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied", "person" includes individual, partnership, association, corporation, company or organization.

(b) Doubt as to the precise meaning of any word used in this bylaw shall be clarified by the Planning Commission.

ACT: The Telecommunications Act of 1996.

ACCESSORY USE or BUILDING: A use of land or building or a portion thereof that is customarily incidental and subordinate to the principal use of the land or building and located on the same lot.

ADEQUATE CAPACITY: Capacity is considered to be adequate if the grade of service is p.05 or better for at least 50 percent of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE: Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least B90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

ADJACENT: 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.

ADMINISTRATOR: The Federal Insurance Administrator.

ALTERATION: The structural change, rearrangement, change of location, or any enlargement or diminution of a building, other than normal repairs and maintenance or modifications in building equipment.

ANIMAL BOARDING/KENNEL: Any structure or premises in which four or more animals are kept, boarded, bred, or trained for veterinary or commercial purposes, excluding agricultural purposes.

ANIMAL HOSPITAL/CLINIC: A facility for the medical or surgical treatment of animals, including but not limited to pets and livestock. Boarding of animals shall be limited to short-term care incidental to the hospital or clinic use.

ANTENNA: A device for transmitting and/or receiving electromagnetic waves that is attached to a tower or other structure.

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

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

APPENDAGE: An attachment to the main body of a sign, which could include a smaller sign, an ornament, or some form of direction indicator.

APPLICANT: An individual, corporation, or firm, or representative thereof, seeking approval for a development proposal. The applicant and land owner need not be the same.

APPROPRIATE MUNICIPAL PANEL: A Development Review Board performing development review.

APPURTENANT STRUCTURE: For purposes of Article VI, the Flood Hazard Area Regulations, “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)

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.

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 these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.” (Interim Flood Hazard Area Regulations, 5-21-12)

AUTO/VEHICLE REPAIR/SERVICE: Building or land used for the purpose of making major or minor repairs for hire to motor vehicles, including painting, body work, and the sale of automobile parts, provided that all motor vehicles located on the premises are for repair or rebuilding and not for salvage.

AUTO/VEHICLE SALES: Establishment for the display and sale of new and used motor vehicles, trailers, mobile homes, and boats.

AVAILABLE SPACE: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

AWNING: A canopy, which may or may not be retractable, attached to a building and usually overhanging an entrance and/or a sidewalk to protect merchandise and/or the public from the elements.

BANNER: A sign made of a flexible material, such as paper, plastic, or fabric, hung with or without frames, to call attention to a campaign, event, or activity, usually of a civic, political, philanthropic, or religious organization.

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”).

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.

BASE STATION: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

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 Article VI, the Interim Flood Hazard Area Regulations, "basement" refers to any area of a building having its floor sub-grade (below ground level) on all sides. (Interim Flood Hazard Area Regulations, 5-21-12)

BILLBOARD: See *Off-Premise Sign*.

BOUNDARY (LOT LINE) ADJUSTMENT: A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no additional lot or lots are created. A

boundary adjustment shall not create a nonconforming lot or use.

BUFFER: An area of land designated for the purpose of physically and/or visibly separating one activity or use from another or to shield or block noise, lights, or other intrusions.

BUILDING: 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.

BUILDING FRONT LINE: Line parallel to the front lot line transecting 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.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the existing grade or finished grade, whichever is lower, at the center of the building to the highest point of the roof.

BUSINESS: A lawful enterprise or organization, except a farm operation, that is conducted primarily for the purchase, sale, lease, and/or rental of personal or real property, and/or the manufacture, processing, and/or marketing of products, commodities, or the provision of services to the public.

BUSINESS/PROFESSIONAL OFFICE: An office designated for business and professional uses that is not intended to service large volumes of customers or clients. Examples include, but are not limited to, law, consultant, insurance, realtor, accountant, and architect offices.

CAMP: A dwelling unit of 800 square feet or less, occupied and/or used on a temporary basis for no more than five months per year. Such structures, consistent with their short-term occupancy, shall not be connected to public utility services.

CAMPGROUND: An area of land upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes.

CAMPING UNIT: 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.

CELLULAR SERVICE: A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

CELLULAR TELECOMMUNICATIONS: A commercial Low-Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels that are assigned in groups to geographic cells within a service area and are capable of being reused in different cells within the service area.

CELLULAR TELECOMMUNICATIONS FACILITY: Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer that connects the mobile unit with the land-based telephone lines.

CHANGE OF USE: Any use that is substantially different from the previous or current use of a building or land. A change of occupancy or ownership does not constitute a change of use.

CHANNEL: The segment of the radiation spectrum to or from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

CLEARCUTTING: The removal, within a contiguous area greater than one (1) acre, of all or almost all trees with a diameter at breast height (dbh) of two (2) inches or greater.

CLINIC: A facility where patients can be treated by one or more medical professionals on an out-patient basis.

CLUB/SERVICE ORGANIZATION: Any use operated on a non-profit basis for social, recreational, service, or educational purposes, but open only to members and not to the general public.

COMMERCIAL SCHOOL: A school not certified by the Vermont Department of Education. Examples include, but are not limited to, schools of business, barbering, beauty, culture, music, dancing, and driving.

COMMUNICATION TOWER: A guyed, monopole, or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure, or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

COMMUNICATIONS FACILITY: A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers, or accessory buildings.

CONDOMINIUM: A building in which an individual has the entire undivided ownership of dwelling unit(s) as opposed to ownership of the land upon which the dwelling sits, and is a multiple-family dwelling.

CONDITIONAL USE: A building or activity permitted in a particular zoning district only after demonstrating that such use in a particular location will comply with all conditions and standards as specified in this bylaw and authorized by the Development Review Board.

CONTOURS: Grade elevations that are the same contained along a single line.

CONTRACTOR STORAGE YARD AND SHOP: Lot and/or buildings used to store and maintain a construction contractor's equipment and materials; does not include retail building or

construction equipment and materials stored for the purpose of retail sales.

COLLOCATION: Locating the wireless communications equipment of more than one provider on a single site.

COVERAGE (or LOT COVERAGE): That percentage of the lot area covered by the footprints of all existing and proposed roofed structures, including principal and accessory buildings and structures open at the sides, such as porches or carports.

CRAFT PRODUCTION: Small-scale production of craft or art products, such as pottery, textiles, crafted wood products, and so forth.

CRITICAL FACILITIES: For the purposes of Article VI, 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.

CRITICAL WILDLIFE HABITAT: Identifiable wildlife habitat that is essential to a life stage of a wildlife species.

CURB CUT: The opening along the curb line of a traveled way at which point vehicles may enter or leave the traveled way.

dBm: Unit of measure of the power level of a signal expressed in decibels above one milliwatt.

dBu: Unit of measure of the electric field strength of a signal, expressed in an absolute measure for describing service areas and comparing different transmitting facilities independent of the many variables (see dBm above) introduced by different receiver configurations.

DEMOLITION: The removal of all or part of a structure.

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

For the purposes of Article VI, 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.

DIRECTIONAL SIGN: A sign indicating the direction or location of various uses, businesses, activities, or facilities located on the premises.

DIVISION OF LAND: See SUBDIVISION; see also **BOUNDARY (LOT LINE) ADJUSTMENT.**

DRIVEWAY: Any private roadway that provides access to any land development.

DWELLING UNIT: Building or part thereof used as living quarters for one family. A dwelling or dwelling unit shall include one or more rooms which are designed, occupied, or intended for occupancy as separate living quarters for the exclusive use of a single household, with cooking, sleeping, and sanitary facilities. Accommodations in a motel, hotel, boarding house, or tourist home shall not be considered dwelling units.

DWELLING UNIT, ACCESSORY: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: the owner occupies either the primary dwelling or accessory dwelling; the property has sufficient wastewater capacity; the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, or the unit does not exceed 1,400 sq. ft. of habitable floor area, whichever is greater; applicable setback, coverage, and parking requirements specified in this bylaw are met.

DWELLING, ONE-FAMILY: Detached building used as living quarters by one family, including mobile homes.

DWELLING, TWO-FAMILY: Building used as living quarters by two families living independently of each other.

ELECTROMAGNETICALLY ABLE: The determination that the signal from and to the proposed new antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified engineer.

EQUIPMENT SALES/RENTAL: A commercial establishment offering tools, supplies, and equipment, excluding registered vehicles or large construction equipment, for rent.

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.

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).

EXTENSION OF NONCONFORMING USE: A nonconforming use that involves the use of increased area on a lot, either in a structure or outside, that does not involve a substantial change to the character of the nonconforming use.

FACADE: The exterior wall surface of a building facing onto a street or other public way.

FACILITY SITE: A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

FALL ZONE: The minimum distance of any ground-mounted wireless service facility to any property line, dwelling, or similar structure shall be no less than the height of the tower, including antennas or other vertical appurtenances.

FAMILY: One or more individuals, who may be related by blood, marriage, adoption, or guardianship, occupying a dwelling unit and living as a single household unit.

FCC: Federal Communications Commission.

FEDERAL INSURANCE ADMINISTRATION (FIA): Agency that administers the National Flood Insurance Program.

FEED PROCESSING AND STORAGE: Lot and/or buildings thereon used primarily for the manufacture, storage, and wholesale distribution of agricultural feed products.

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose, separate, or screen areas of land.

FLAG: An article of flexible material, such as paper, nylon, or fabric, attached at one edge to a staff or cord, and used as a symbol of a nation, a state, or a civic or governmental organization.

FLASHING SIGN: A sign whose illumination is not kept constant in intensity at all times when in use and that exhibits changes in light, color, direction, or animation. Illuminated signs that indicate the date, time, and temperature will not be considered flashing signs.

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.

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.

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.

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

FLOODWAY, REGULATORY IN TOWN/VILLAGE OF 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.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see *Flood*).

FLOOR AREA: 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.

FREESTANDING SIGN: A self-supporting, portable sign or sign structure not securely attached to the ground or to any other structure.

FREQUENCY: The number of cycles completed each second by an electromagnetic wave, measured in hertz (Hz), megahertz (MHz, or one million hertz), or gigahertz (GHz, one billion hertz).

FRUIT/VEGETABLE STAND (on-site): A facility or operation selling only agricultural or horticultural products produced on the site.

FUNERAL HOME/MORTUARY: An establishment used for the preparation or storage of the deceased for burial, display, and ceremonies related therewith before burial or cremation.

FURNITURE REFINISHING AND CABINET SHOP: Business which repairs, strips, cleans, paints, finishes, and/or constructs furniture, cabinetry, or other finished wood products.

GASOLINE STATION: Building or land that is used for the sale of motor fuel, and which may sell oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

GENERAL INDUSTRY: Includes all industrial uses not specifically otherwise listed in Section 503 or prohibited in Section 306. Included are beverage-bottling plants, concrete or asphalt plants, dairy product processing, fuel-storage yards, heavy industry, laundry or dry-cleaning plants, sawmills or planing mills, truck-terminal yards, and any facility handling or processing solid waste and/or recyclable material.

GOVERNMENT USES: All uses, other than those specified herein, operated directly by the

federal government, the state, or a municipality.

GRADE, EXISTING: Surface elevation prior to any development or pre-development site preparation.

GRADE, FINISHED: Surface elevations of grounds, lawns, walks, paved areas, and roads brought to elevation as shown on plans relating thereto.

GRADE OF SERVICE: A measure of the percentage of calls that are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05 B which means that 95 percent of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

GREENHOUSE: A structure, frequently with a transparent or translucent roof, designed and used for the planting, breeding, growing, care and display of plants, flowers, and vegetables (of whatever type). Sale of any products or materials not produced on site constitutes retail, not greenhouse use.

GROUND SIGN: A sign having its own supporting structure in a fixed location on the ground and is not attached to any building, wall, or fence.

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 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.

HOME OCCUPATION: An activity or service conducted within a dwelling or accessory building for economic gain by the residents thereof that is clearly secondary to the residential use of the dwelling and does not change the character thereof.

HOSPITAL/CLINIC: A facility providing health-care services and medical or surgical care to persons on an in-patient or out-patient basis for physical or mental ailments; includes related facilities such as laboratories, outpatient facilities, or training facilities.

HERTZ: The frequency of an electric or magnetic field that reverses polarity once each second, or one cycle per second.

ILLUMINATED SIGN: Any sign lit by electrical bulbs, fluorescent lights, or neon tubes.

JUNK YARD: Any place of outdoor storage, including open-air structures, that is visible from a public or private road, and is used for:

- (1) collecting or storing, whether in connection with a business or not, more than 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
- (2) collecting or storing two or more unregistered and uninspected motor vehicles; or
- (3) collecting, wrecking, dismantling, storing, salvaging or selling parts of machinery, equipment, or vehicles.

LANDFILL (OR DUMP): Land used for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

LEGISLATIVE BODY: The legislative body of the Village of Waterbury is the Village Board of Trustees. The legislative body of the Town of Waterbury is the Town Select Board.

LIGHT INDUSTRY: An enterprise engaged in the manufacture, assembly, or handling of goods that does not result in the emission of pollutants into the air or water, noise discernible from outside a building, heavy truck traffic, the use of water in the manufacturing process, the production of waste other than from employees' toilets, outside storage of goods or materials, or other similar impacts.

LOADING SPACE: Off-street space used for the temporary location of one licensed motor vehicle for the purpose of the delivery of materials or goods.

LOT: Land occupied, or is to be occupied, by a building and its accessory buildings, having not less than the minimum area, width and depth required in the district in which such land is situated, and having frontage on a street or other means of access as may be determined by the Zoning Administrator, in accordance with Section 413(b).

LOT AREA: Total contiguous area within the property lines of a lot, excluding any part thereof lying within the boundaries of a public street or proposed public street. Separate land parcels connected only by a right-of-way or easement shall not be considered contiguous, nor shall convolutedly shaped lots that violate the intent of the contiguous requirement.

LOT, CORNER: A lot that has an interior angle of less than 135 degrees at the intersection of two streets. A lot adjacent to a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection to the side lot lines intersect at an interior angle less than 135 degrees.

LOT DEPTH: The distance measured from the front lot line to the rear lot line. For irregularly shaped lots, the average lot depth should be measured by drawing lines every ten feet from the front to rear lot lines at right angles to the front lot line and averaging their length.

LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or

proposed building front line.

LOT LINE: Property lines bounding a lot.

LOT WIDTH: Width measured at right angles to its lot depth, at the required building front line.

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.

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.

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.

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.

MEDICAL OFFICE: An office occupied by no more than two medical professionals and intended to serve patients or clients.

MICROWAVE: Electromagnetic radiation with frequencies approaching 1,000 MHz, including UHF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

MINI SELF-STORAGE FACILITY: A commercial building(s) used primarily for storing personal items that is not used for sale or distribution of these goods. Any individual building or structure shall not be more than 25 feet in height overall, shall not be more than 14 feet in height at the eaves line, and shall not have a building footprint greater than 4,500 sq. ft.

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.

MOBILE HOME: A prefabricated dwelling unit which is designed for long-term and continuous residential occupancy; is designed to be moved on wheels, as a whole or in sections; and is complete and ready for occupancy on arrival at the site, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure.

MOBILE HOME PARK: A site with required improvements and utilities for the long-term parking of mobile homes; may include services and facilities for the residents.

MODIFICATION OF AN EXISTING FACILITY: Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

MODIFICATION OF AN EXISTING TOWER: Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving, and/or relaying antennas and/or equipment.

MONITORING: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities, towers, antennas, or repeaters.

MONOPOLE: A single self-supporting vertical pole with no guy-wire anchors.

MOTEL/HOTEL/INN: A facility offering transient lodging accommodations to the general public.

MOVEABLE SIGN: See *Freestanding Sign*.

MULTIPLE-FAMILY DWELLING: Detached, attached, or semi-attached buildings in which three or more families are living independently on the same lot. May include family dwelling, condominium, or planned unit development.

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. (Interim Flood Hazard Area Regulations, 5-21-12)

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.

NONCONFORMING USE: A use of land or a structure that does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of such regulations.

NONCOMPLYING STRUCTURE: A structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements, where such structure conformed to all applicable laws,

ordinances, and regulations prior to the enactment of such zoning regulations.

NURSING/COMMUNITY-CARE HOME: An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

OFF-PREMISES SIGN: A sign that directs attention to a business, industry, profession, service, commodity, or activity that is conducted, sold, or offered somewhere other than the premises where the sign is located.

PARKING AREA: Any public or private land area designed and used for storing motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING SPACE: An area that is clearly designated for the temporary location of one licensed motor vehicle, not including access driveway, within a public or private parking area.

PENNANT: A piece of fabric, plastic, or other material that is not a flag.

PERENNIAL STREAM: A stream that has flowing water year-round during a typical year.

PERSONAL WIRELESS SERVICES: Commercial mobile services, unlicensed wireless exchange access services. These services include cellular services, personal communications services, specialized mobile radio services, and paging services.

PLANNED UNIT DEVELOPMENT: A project that provides a more flexible arrangement of residential and nonresidential structures and uses as outlined in Article VII of this bylaw.

POLITICAL SIGN: A temporary sign calling attention to a political event, vote, election, or candidate for public office.

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.

PRE-EXISTING TOWERS AND ANTENNAS: Any tower or antenna for which a permit has been issued prior to the effective date of this bylaw.

PROJECTING SIGN: A sign, other than a wall sign, that extends beyond the building or wall surface to which it is affixed in such a manner that the portion conveying visual communication is not flush with the building.

PUBLIC/NON PROFIT SCHOOL: Any school certified by the Vermont Department of Education; includes parochial, private, and public schools, colleges, and universities.

PUBLIC PARK OR RECREATION AREA: Includes any publicly owned and operated playground, playfield, park, picnic area, boating facility, or swimming facility, and may also include campgrounds and other related facilities as accessory uses.

PUBLIC VEHICULAR WAY: That portion of a highway right-of-way which is traveled by vehicles.

PUBLIC WATER, PUBLIC SEWER: Water supply and sewage disposal systems approved by the Village Trustees for municipal operation.

RECREATION/AMUSEMENT FACILITIES: Includes, but is not limited to, bowling alleys, miniature golf, theater, table tennis or pool halls, indoor skating rinks, gymnasiums, indoor swimming pools, indoor tennis courts, stadiums, and similar places of commercial recreation.

RECREATION, OUTDOOR: Includes, but is not limited to, golf driving range, golf course, hunting reserve, trap, skeet and archery range, outdoor swimming pool, outdoor skating rink, park, outdoor tennis court, skiing facility, and beach.

RECREATION, OUTDOOR WITH COMMERCIAL: Includes all specific uses in the Outdoor Recreation use with additional commercial uses allowed that are accessory to these Outdoor Recreation uses. The accessory commercial uses shall be limited to retail store/service, restaurant, bar, business professional office, and motel/inn. A maximum of 500 sq. ft. of non-residential floor area for each 10 acres of site area used for outdoor recreation may be permitted for the accessory commercial uses. A maximum total of 10,000 sq. ft. of accessory commercial floor area may be permitted for any given parcel. In order for a use to be considered accessory it shall meet the requirements for "accessory use" as defined in this bylaw.

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.

RENEWABLE ENERGY RESOURCE: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

RESTAURANT/BAR: An establishment where the primary business is the preparation and service of meals or drinks to the public for consumption on the premises; this shall exclude any service directly to customers in automobiles, such as drive-up or drive-through service.

REPEATER: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

RETAIL STORE/SERVICE: Includes, but is not limited to, a shop or store for the sale of retail goods, personal service shop, antiques shop, gift shop, grocery store, or department store, but does not include commercial uses listed separately in the Use Regulation Table in Article V.

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.

ROOF AND/OR BUILDING MOUNT FACILITY: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

ROOF SIGN: A sign that is located or projects above the lowest point of the eaves or the top of the parapet wall of any building, or that is painted on or fastened to a roof surface.

ROOM: A separate space intended for occupancy by persons or a family, in a rooming house, motel/hotel/inn, or tourist house. A room may or may not have an attached bathroom. If a space is designed to sleep more than four persons, as with dormitory-type rooms, it shall be counted as multiple rooms, depending on the number of multiples of four persons that it can sleep.

ROOMING HOUSE: A house in which rooms without kitchen facilities are rented as principal residences.

SANDWICH BOARD: An A-shaped freestanding sign with one or both sides used for advertising.

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.

SCHOOL, PUBLIC/SEMI-PUBLIC: Includes parochial, private, public and nursery school, college, university and accessory uses and shall exclude commercially operated schools of beauty culture, business, dancing, driving, music, and similar establishments.

SELF-SUPPORTING TOWER: A communications tower that is constructed without guy wires.

SETBACK: The distance between the nearest portion of a building on a lot and a street line or a property line or the boundary of a right-of-way for a driveway that provides access to more than five dwelling units or more than five lots.

SIGN: A structure or display of lettering, a logo, or other image intended to directly or indirectly convey a message, advertise, direct, invite, announce, or otherwise draw attention to a use conducted, or goods, products, services or facilities available on the premises. This does not include window displays and merchandise.

SIGN AREA: The area of a sign shall be determined through Section 803.3 of this bylaw.

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.

SKYLINE: An outline of a hill or mountain range against the background of the sky as viewed from a vantage point as defined herein.

SOIL/SAND/GRAVEL/MINERAL EXTRACTION: The removal of sod, loam, sand, gravel, clay, or quarried stone or other earth resources, except when incidental to or in connection with the construction of a building on the same lot. Extraction of material in excess of 1000 cubic yards that is transported off site shall not be considered incidental to construction.

SPECIAL FLOOD HAZARD AREA: See *Area of Special Flood Hazard*.

SPECTRUM: Relating to any transmissions or reception of electromagnetic waves.

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 Article VI, 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.

STEEP SLOPES: Slopes having a grade equal to or greater than 25 percent.

STORAGE FACILITY/WAREHOUSE: Establishments used primarily for the storing, warehousing, and distributing of goods, wares, and merchandise, which do not involve retail sale of such goods, wares, or merchandise on the premises.

STORY: Part of a building that is between one floor level and the next higher floor level, or if there is no floor above it, then the ceiling or roof above it.

STREET: Public way for vehicular traffic that affords the principal means of access to adjacent properties.

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.

STRUCTURAL SUPPORT: Any post, beam, wall, or other device upon which a sign is affixed or suspended from that is incidental to the sign.

STRUCTURALLY ABLE: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

STRUCTURE: 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.

STRUCTURE: For the purposes of Article VI, 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)

STRUCTURE, SMALL ACCESSORY: For the purposes of Article VI, 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.

SUBDIVISION: The division of any parcel or area of land into two (2) or more lots, plots, or parcels.

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.

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) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

TELECOMMUNICATIONS FACILITY: All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

TELECOMMUNICATIONS PROVIDER: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

TEMPORARY SIGN: A nonpermanent sign constructed of any material for the purpose of advertising a product, event, service, or facility for a limited period of time.

TEMPORARY WIRELESS COMMUNICATION FACILITY: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

TOURIST HOUSE/B & B (Bed and Breakfast): A facility offering transient lodging

accommodations to the general public that has not more than five rooms for rent, and in which the owner resides and operates the facility.

TOWER: A vertical structure for antenna(s) that provide telecommunications services.

TRAVEL TRAILER: A mobile vehicle with wheels, designed for short-term occupancy, overnight lodging, or camping purposes, and capable of being towed by a passenger automobile or pickup truck.

TREE FARMING/COMMERCIAL FORESTRY: Any activity involving the maintenance and/of management of an area of trees for any of the following purposes: to produce commercial timber and/or other forest products; to provide good forest cover for watershed protection; to protect and preserve open land; or to maintain wildlife habitat.

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.

UNIQUE OR FRAGILE RESOURCES: Areas that include irreplaceable, threatened, or endangered species or communities.

USE: The specific purpose(s) for which land or structure is, or may be, designed, intended or occupied, excluding the division of land.

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 the Town or Village of 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.

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.

VIOLATION: For the purposes of Article VI, the Flood Hazard Area Regulations, "violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

WALL SIGN: A sign attached to, painted on, or otherwise affixed to the exterior of a building, the display area of which is parallel to the building wall to which it is attached, and no part of which projects over six (6) inches from the face of the building.

WAREHOUSE: Includes warehouse, wholesale establishment, bulk storage, and bulk sales

outlet.

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.

YARD: Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD, FRONT: Yard between the front lot line and the building front line extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building. If a lot abuts a public street right-of-way, then that side of the lot shall be considered the front, even if the access to the lot is through a private driveway from another direction.

YARD, REAR: Yard between the rear lot line and the building rear line extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

YARD, SIDE: Yard between the principal building or accessory building and a side lot line, and extending from the front yard to the rear yard.

APPENDIX A: SIGN DESIGN GUIDELINES

This section offers guidelines only and are not requirements. Because signage is intended to be visible and attract attention, it has a significant visual impact on an area, particularly one which seeks to maintain its historic character and certain aesthetic qualities. Signage, as part of the overall character of an area, can produce a lasting impression on visitors and shoppers. This section is offered to sign owners and sign makers as a non-regulatory, voluntary guideline; it will not be used to evaluate a proposed sign.

Signs in Historic Districts

There are many areas in Waterbury with structures of historical and/or architectural significance, including four designated historic districts. These historic districts are also consistent with original village settlements which remain characterized by mixed uses and a pedestrian orientation. Signage in these areas should complement the character of the area and the structure it relates to.

Sign Types

The choice of sign should depend upon the surroundings and the attention one desires to attract. An abundance of signs of many different sizes, shapes, and heights in the same area can be visually chaotic and ineffective as they compete for the attention of the viewer, particularly in business districts. Signs of with similar materials, lighting, and styles of support can provide a unifying element to a village or business district and enhance the area for business (Figure 3).

Ground signs are perhaps best used in situations where there is a large setback from the street, where the attention of fast-moving vehicles is being sought, or where there are several uses in one building or complex.

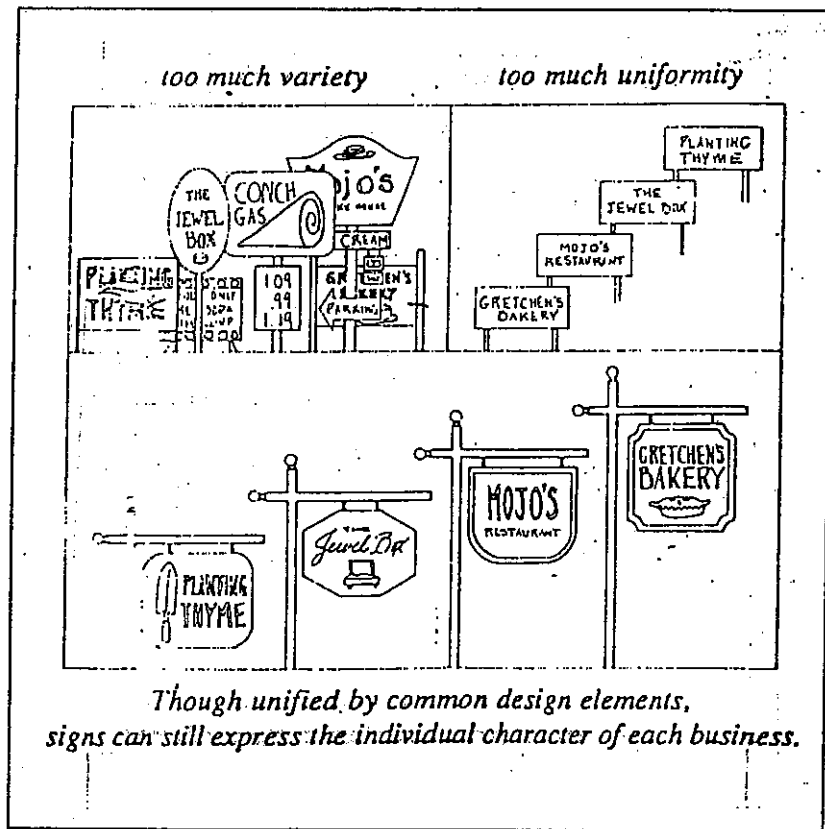


Figure 3. Variety vs. Uniformity

Illustration from the Village Planning Handbook, Bucks County Planning Commission, 1989.

Wall signs, or other signs attached directly on a building, are best used in pedestrian or Village scale commercial areas. Figure 4 illustrates appropriate locations on a building for various types of signs.

Projecting signs are best used for street-level and second floor business identification where the attention of people in slow-moving cars or pedestrians is desired and where little or no front yard is available for a ground or free-standing sign (Figure 4, No. 8). Those identifying second floor businesses (No. 9) should be placed directly beside a related window and should not be higher than the height of the window opening. First floor projecting signs should not project more than three feet and second floor projecting signs should not project more than two feet beyond the facade of the building.

Windows provide an excellent area for signs which will not interfere with the architectural details or overall appearance of the structure. Such signs should simply state the name and function of the business.

Covering the window with long lists of products, prices, and other information can create a cluttered and unattractive appearance.

Free-standing signs are perhaps best used in areas of slow-moving vehicular traffic or pedestrian activity. Free-standing signs work very well in intimate settings, such as court yards.

Placement

If two establishments share a common storefront (Figure 4, No. 1), ideally, both would use the same basic sign format. Signs relating to street-level establishments should be placed within an information band (No. 3) immediately above the storefront (No. 1) or should be applied directly to the display window (No. 2).

The information band (No. 3) should not be longer than the overall length of the storefront (No. 1). If it cannot be confined to the width of an existing band defined by the of the building, its recommended height should not exceed two feet, six inches.

Second floor businesses should be identified either by a street-level directory or a sign which is placed directly beside (No. 4), immediately above (No. 5, or applied directly on a related window (No. 6.). A sign placed beside the window should be no higher than the height of the window opening. A sign placed immediately above a window should be no longer than the overall width of the window.

Third floor businesses should be identified either by a street-level directory or a sign which is applied directly to a related window (No. 7). No signs should be placed on the facade of the building above the second floor.

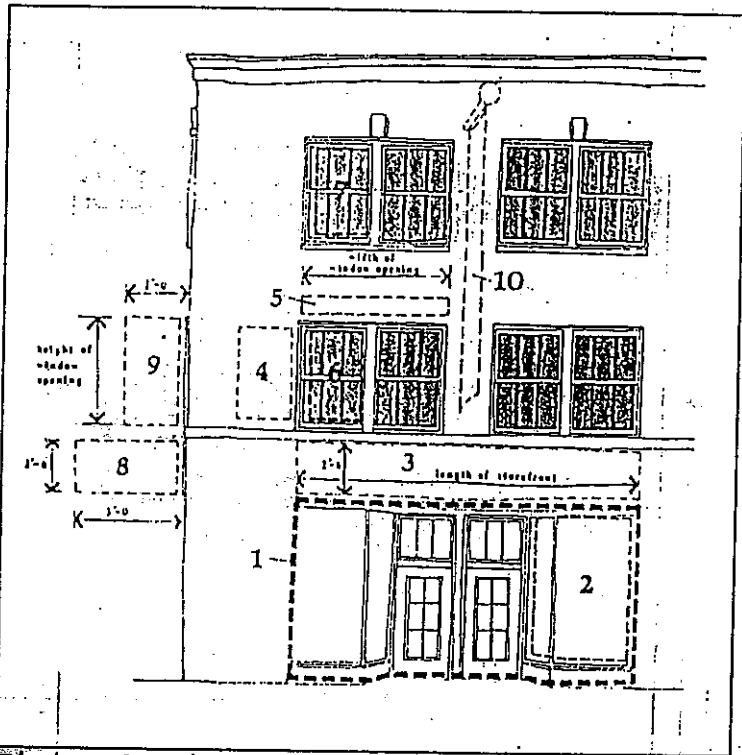


Figure 4. Sign types and placement

Size

The size of words and the overall sign should be kept in scale with the viewer's expected location and speed. The sign should also be scale with the building it is associated with. Larger, auto-oriented signs may be more appropriate on Route 100 but are generally not consistent with the scale and

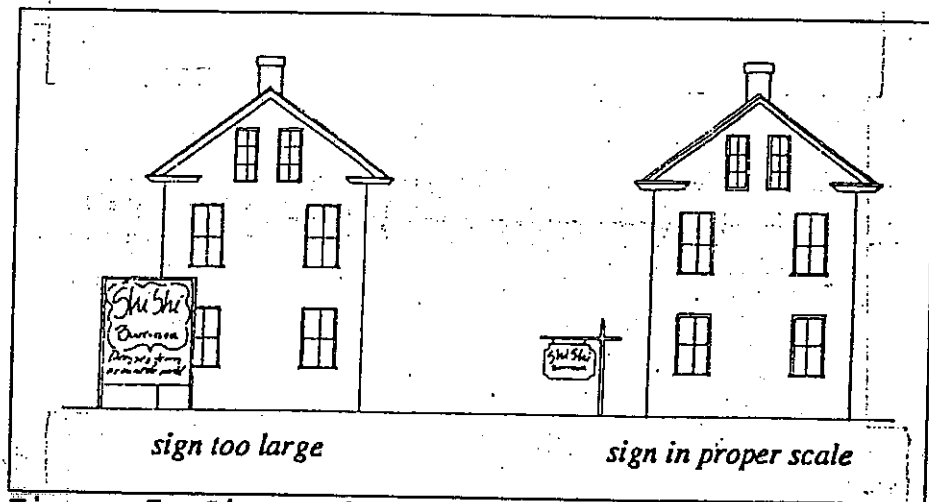


Figure 5. Size and scale

pedestrian-orientation of village areas (Figure 5).

The size of the sign should depend upon its expected location on the facade of the building so it does not conceal significant architectural details (Figure 4).

Content

The message on the sign should be easy to read, direct, and simple. Too much information on one or a group of signs may be difficult for a viewer to absorb (Figure 6). A sign using bold, easily-recognized symbols and clear, crisp lettering will effectively identify a business or activity, enhance the area in which it is located, and complement the general appearance of the street. Pictures, symbols, and logos can add individuality and character to signs, in addition to making them easier to read.

Materials

Materials should be selected which are compatible with the architecture of the building and the character of the area. For signs in historic village areas and business districts, consideration should be given to how its materials will fit into the surrounding streetscape. In

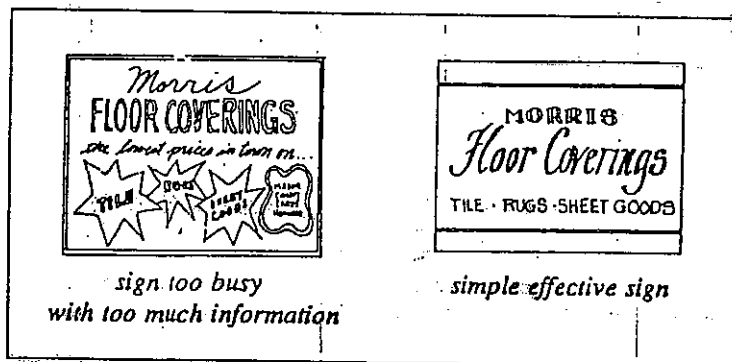


Figure 6. Cluttered vs. clear information

Waterbury's historic village areas, for example, sign materials should be consistent with or complement the construction materials and architectural style of the building or structure. Signs of wood, either painted or carved, are usually most appropriate for the architectural features of villages. While a variety of supports could be used, wood or wrought iron is recommended. Internally-lit plastic signs are generally not consistent in historic village areas.

Figures 5 & 6 from the Village Planning Handbook, Bucks County Planning Commission, 1989.

Colors

Most signs need no more than three colors: one for background, a contrasting color for lettering, and a third for emphasis (such as borders, motifs, or shading). For an illustration incorporated into a sign, complementary colors should be used (Figure 7).

Colors used for a sign should complement general tone of the structure it serves. When more than one sign is used, the colors of the signs should be coordinated to present a unified image.

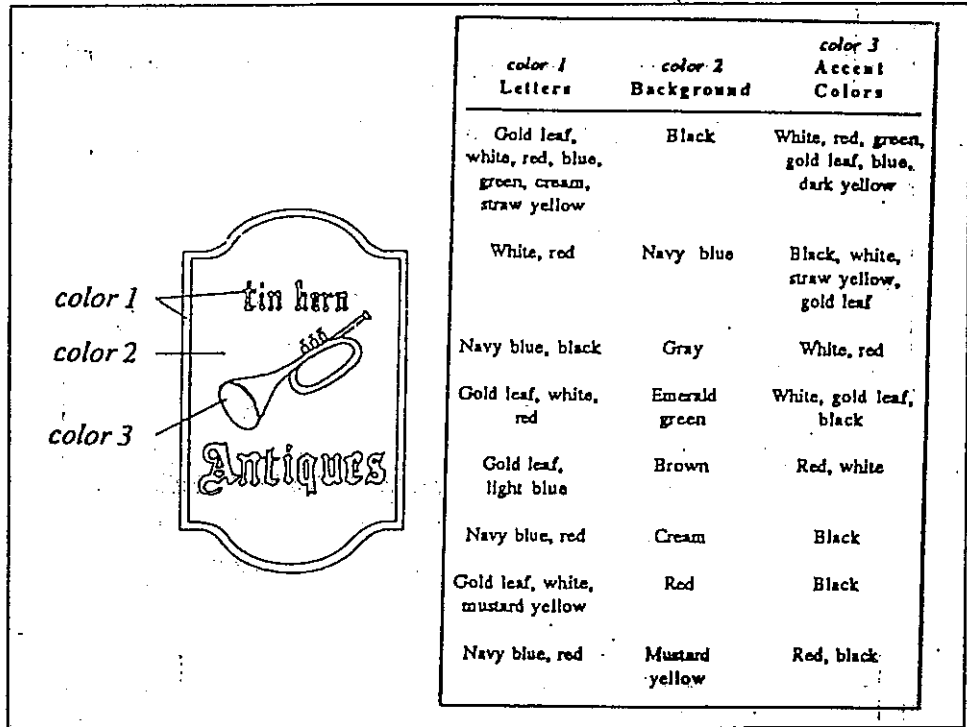


Figure 7. Colors

Figure 7 from the Village Planning Handbook, Bucks County Planning Commission, 1989.

APPENDIX B: OFFICIAL ZONING MAP