

TOWN OF LYNDON
ZONING BY-LAWS

EFFECTIVE NOVEMBER 6, 1996

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

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ZONING BYLAWS
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**TOWN OF LYNDON
ZONING BYLAWS**

Nov. 6, 1996

ARTICLE I.

Adoption: Purpose

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

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

ARTICLE II

Zoning Districts

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

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

ARTICLE III

District Objectives and District Regulations

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

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

3.1.1 Permitted Uses.

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

3.1.2 Conditional Uses.

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

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

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

3.2.1 Permitted Uses.

- 3.2.1.1 Single family dwellings
- 3.2.1.2 Two family dwellings
- 3.2.1.3 Home occupation

3.2.2 Conditional Uses.

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

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

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

3.3.1 Permitted Uses.

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

3.3.2 Conditional Uses.

- 3.3.2.1 Single, two and multi-family dwellings
- 3.3.2.2 Drive-in restaurant
- 3.3.2.3 Warehouse
- 3.3.2.4 Car wash
- 3.3.2.5 Fuel distribution
- 3.3.2.6 Day care center
- 3.3.2.7 Community care home
- 3.3.2.8 Church
- 3.3.2.9 Motor vehicle repairs

- 3.3.2.10 Automobile service station
- 3.3.2.11 School
- 3.3.2.12 Medical clinic
- 3.3.2.13 Private club
- 3.3.2.14 Personal Wireless Service Facilities
- 3.3.2.15 Other general commercial uses involving wholesale or retail trade, transportation, light industry, printing, and other similar uses upon the finding by the Board that such uses will not be detrimental to other uses in the Village Commercial District or to adjoining land uses.

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

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

3.4.1 Permitted Uses

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

3.4.2 Conditional Uses

- 3.4.2.1 Office
- 3.4.2.2 Guest house for transients not serving meals
- 3.4.2.3 Two family dwelling
- 3.4.2.4 Bed and breakfast
- 3.4.2.5 Personal Wireless Service Facilities
- 3.4.2.6 Uses that are similar to and compatible with, and no more intrusive or intensive than, other permitted or conditional uses that are allowed in the Park District, and that are compatible with the architectural features of the Park District

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

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

3.5.1 Permitted Uses

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

3.5.2 Conditional Uses

- 3.5.2.1 Warehouse or trucking terminals
- 3.5.2.2 Public facility
- 3.5.2.3 Municipal uses
- 3.5.2.4 Manufacturing, fabricating, assembling, processing, packing, treatment or warehousing of goods and products
- 3.5.2.5 Research or testing laboratories
- 3.5.2.6 Commercial uses
- 3.5.2.7 Junk yard
- 3.5.2.8 Lumber yard
- 3.5.2.9 Automobile service station
- 3.5.2.10 Slaughterhouse
- 3.5.2.11 Asphalt or cement or aggregate plant
- 3.5.2.12 Bulk storage of dangerous materials
- 3.5.2.13 Retail store
- 3.5.2.14 Bulk storage and distribution of petroleum and petroleum products
- 3.5.2.15 Recycling center
- 3.5.2.16 Incinerator
- 3.5.2.17 Motor vehicle repair facility
- 3.5.2.18 Telecommunications and Teleprocessing facilities
- 3.5.2.19 Extraction of Earth Resources
- 3.5.2.20 Personal Wireless Service Facilities
- 3.5.2.21 Other general industrial uses, or commercial uses involving wholesale or retail trade, or transportation, and other similar uses, upon the finding by the Board that such uses will not be detrimental to other uses in that specific Industrial District or to adjoining land uses.

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

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

3.6.1 Permitted Uses:

- 3.6.1.1 Single family dwelling
- 3.6.1.2 Two family dwelling
- 3.6.1.3 Restaurant
- 3.6.1.4 Bar
- 3.6.1.5 Retail store
- 3.6.1.6 Personal service establishments
- 3.6.1.7 Office
- 3.6.1.8 Retail service
- 3.6.1.9 Public building
- 3.6.1.10 Bank

- 3.6.1.11 Indoor theater
- 3.6.1.12 Parking
- 3.6.1.13 Municipal use
- 3.6.1.14 Convenience Store
- 3.6.1.15 Bed and breakfast
- 3.6.1.16 Guest Home
- 3.6.1.17 Wholesale distribution
- 3.6.1.18 Home Occupation

3.6.2 Conditional Uses:

- 3.6.2.1 Multi-family dwelling
- 3.6.2.2 Mobile home park
- 3.6.2.3 Warehouse
- 3.6.2.4 Truck terminal
- 3.6.2.5 Car wash
- 3.6.2.6 Indoor recreation
- 3.6.2.7 Automobile service station
- 3.6.2.8 Motel
- 3.6.2.9 Drive-in restaurant
- 3.6.2.10 Day care center
- 3.6.2.11 Motor vehicle repairs
- 3.6.2.12 Telecommunications and Teleprocessing facilities
- 3.6.2.13 Funeral home
- 3.6.2.14 Fuel distribution
- 3.6.2.15 Light industry
- 3.6.2.16 Lumber yard
- 3.6.2.17 Medical clinic
- 3.6.2.18 Private club
- 3.6.2.19 Extraction of earth resources
- 3.6.2.20 Personal Wireless Service Facilities
- 3.6.2.21 Other general commercial uses involving wholesale or retail trade, transportation, printing, and other similar uses upon the finding by the Board that such uses will not be detrimental to other uses in the Commercial District or to adjoining land uses.

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

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

3.7.1 Permitted Uses: There are no permitted uses in this District.

3.7.2 Conditional Uses: Manufacturing, upon the condition that, in addition to the customary standards provided in Section 4.2, each of the performance standards in Section 4.2.5 shall be specifically considered.

3.8 **Main Street.** U. S. Route # 5, known locally as North Main Street, is the only means of access to and from the heart of the Town of Lyndon from the north. All persons traveling through Lyndonville must travel on North Main Street, and their impression of the Town of Lyndon will be affected by the land uses on and

appearance of Main Street. It was the first section of Lyndonville to be developed, and contains many buildings having historical, architectural and social importance. It is characterized by a mixture of industrial, commercial and residential uses. It should be used for purposes that are compatible in a mixed use area, with an emphasis on providing incentives to the owners of land and buildings in the District to improve North Main Street's appearance and to keep commercial activity concentrated in or near the Village Commercial District.

It is desirable that new buildings constructed in the North Main Street District, whether on vacant land or to replace existing structures, have design features and be constructed with materials that are similar to and compatible with the design and construction materials of the majority of the existing structures in the district. All structures in the Main Street District shall have not less than two stories of living or other usable space at and above street level.

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

3.8.1 Permitted uses.

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

3.8.2 Conditional uses.

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

3.9 **Institutional Control Area.** The Institutional Control Area is the area tentatively identified in the document titled "Proposed Plan, Superfund Program, Parker Landfill Site, Lyndon, Vermont" dated June, 1994 prepared by the Environmental Protection Agency of the United States of America, as the former Municipal and Industrial Waste Landfill located on the southeastern side of Lily Pond Road. It is to be more particularly identified by the Environmental Protection Agency of the United States of America upon its completion of certain studies of the former Municipal and Industrial Waste Landfill it has undertaken. Upon receipt of information from the Environmental Protection Agency of the United States of America that will enable the Planning Commission to define the boundaries of the Institutional Control Area with specificity, the Planning Commission shall, after notice and hearing, recommend boundary lines for the Institutional Control Area to the Board of Selectmen. If the Board of Selectmen adopt boundary lines for an Institutional Control Area, land development in the Institutional Control Area shall be controlled by the District in which it is located, and also by the restrictions set forth in paragraph 3.9.1 through 3.9.4 below. This district is intended solely to prohibit (a) land development in any Solid Waste Disposal

Area, and (b) the use of ground water taken from the Institutional Control Area, pursuant to the recommendations made in the Proposed Plan identified in this Section 3.9.

3.9.1 No land development may take place in any Solid Waste Disposal Area nor in any Industrial Waste Disposal Area shown on Figure 1 in the document titled "Proposed Plan, Superfund Program, Parker Landfill Site, Lyndon, Vermont" dated June, 1994 prepared by the Environmental Protection Agency of the United States of America.

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

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

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

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

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

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

ARTICLE IV

GENERAL PROVISIONS

4.1 District Boundaries

4.1.1 If any district boundary is a road, stream or transportation right of way, the boundary shall be the center line thereof. The abandonment of such roads or other lines shall not hereafter affect the location of district boundaries. In the event of any question regarding the location of a district boundary, the location of such boundary as shown on the official zoning map entitled "Lyndon Zoning Map, 1995" shall control. When the Administrative Officer cannot determine the location of a district boundary, the Planning Commission shall determine the location of such district boundary with reference to the official zoning map and the purposes set forth in all relevant provisions of this by-law.

4.2 Permitted and Conditional Uses

4.2.1 Any use identified as a "Permitted Use" in the table relating to a particular zoning district may be commenced, enlarged or altered in such district provided that all of the applicable provisions of these zoning

bylaws are satisfied. Unless a variance or other special action by the Board or Planning Commission must first be obtained, a zoning permit shall be obtained from the Administrative Officer pursuant to this by-law.

4.2.2 Any Development identified as a "Conditional Use" in a particular zoning district may be commenced, enlarged or altered in such district only after the applicant obtains approval for such Development from the Board pursuant to Section 4407(2) of the Act, after public notice and hearing, and all other necessary approvals. No Conditional Use permit shall be granted unless the applicant affirmatively establishes and the Board finds that the proposed Conditional Use will not adversely affect:

- 4.2.2.1 the capacity of existing or planned community facilities;
- 4.2.2.2 the character of the area affected;
- 4.2.2.3 traffic on roads and highways in the vicinity;
- 4.2.2.4 bylaws then in effect;
- 4.2.2.5 utilization of renewable energy resources; or
- 4.2.2.6 performance standards pursuant to Section 4407(7) of the Act and Section 4.4.5 of this bylaw.

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

4.2.4 When determining whether a proposed conditional use will adversely affect the character of the area involved, the Board shall give weight to the well founded opinions with respect to such proposed use of any interested person as defined in Section 4464(b) of the Act.

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

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

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

4.3 Classification of Lots: Source of Water and Sewage Service

4.3.1 Lots are classified as follows:

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

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

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

4.4 Application of District Regulations.

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

4.4.2 Lots

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

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

4.4.3 Lot coverage and front, side and rear yard requirements that apply to entire districts fail by their nature to account for all of the different conditions that exist within each district. Such requirements should not be conclusive and binding land use requirements subject to the inflexible requirements of Section 4468 of the Act. Therefore, any proposed Development in a particular zoning district that fails to satisfy lot coverage or front, side or rear yard requirements in that district may be allowed as a Conditional Use in that district, if the applicant affirmatively establishes that (a) the conditions established in Sections 4.4.5.1 through 4.4.5.6 inclusive are satisfied, (b) the degree to which the proposed Development fails to meet such requirements is no greater than the degree to which properties in the immediate vicinity also fail (if at all) to meet such requirements, and (c) the proposed Development is a Permitted Use or a Conditional Use in that district. The maximum amount of lot coverage that may be considered under conditional use provisions is 125% of the maximum listed by district in the chart depicting "Town of Lyndon Minimum Requirements for Development". For example, if a maximum lot coverage in a particular district is 20%, the Planning and Zoning Commission may approve lot coverage of over 20%, up to a maximum of 25%, if the proposal satisfies conditional use criteria.

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

4.4.5 **Performance Standards.** Pursuant to Section 4407(7) of the Act, the following performance standards, and all applicable state imposed standards, shall be satisfied for any Conditional Use in all Districts. The Board shall, after notice and hearing, decide whether a proposed Development satisfies the performance standards set forth herein. No Development shall:

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

4.5 **Recreational Camps.** Notwithstanding any provisions of this bylaw to the contrary, a recreational camp shall not be required to satisfy the sewage disposal requirements of this bylaw. A conversion of a recreational camp to a residence shall require a new application for a permit and a Certificate of Occupancy before it can be occupied as a residence. For the purposes of this section, "recreation camp" means a structure, such as a hunting camp, that is intended to be and is in fact occupied only for recreational purposes and that lacks one or more of the following: (i) inside running water, (ii) insulation, (iii) interior heat, or (iv) a wastewater disposal system.

4.6 **Variances.** Applications for a variance from the provisions of this bylaw shall be governed by, and granted or denied in accordance with, the provisions of 24 V.S.A. § 4468. Pursuant to § 4.4.3 of this bylaw, applications for permission to deviate from the maximum lot coverage or the minimum front, side or rear yard requirements set forth elsewhere herein are not applications for a variance, but are to be granted or denied as conditional uses.

4.7 **Sewage Disposal Systems.** This by-law is not intended to create requirements for sewage disposal systems that are different from state requirements that are in effect from time to time. All sewage disposal systems other than municipal sewage disposal facilities shall comply with the requirements of Chapter 7 - "Sewage Disposal" - of the Environmental Protection Rules of the Protection Division Vermont Agency of Environmental Protection, as amended from time to time.

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

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

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

ARTICLE V

NON-CONFORMING USES

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

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

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

- 5.3.1 the capacity of existing or planned community facilities;
- 5.3.2 the character of the area affected;
- 5.3.3 traffic on roads and highways in the vicinity;
- 5.3.4 bylaws then in effect;
- 5.3.5 utilization of renewable energy resources; or
- 5.3.6 the performance standards set forth in Section 4.4.5 of this by-law.

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

- 5.4.1 the capacity of existing or planned community facilities;
- 5.4.2 the character of the area affected;
- 5.4.3 traffic on roads and highways in the vicinity;
- 5.4.4 bylaws then in effect;
- 5.4.5 utilization of renewable energy resources; or
- 5.4.6 the performance standards set forth in Section 4.4.5 of this by-law.

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

ARTICLE VI

OFF-STREET PARKING REGULATIONS

6.1 Village Commercial District.

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

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

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

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

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

<u>Use</u>	<u>Parking Spaces Required</u>
Lodging House	1 for each lodging unit
Residential 1-2 family	2 per dwelling unit
Multiple family dwellings	1½ per dwelling unit
Church, school	1 per 3 seats in principal assembly room
Private club or lodge	1 per 6 members
Theater	1 per 6 seats
Hospital, nursing & convalescent home	1 per 3 beds and 1 for each employee
Professional office, business service and medical clinic	1 per every 250 square feet of gross area
Retail business, personal service establishment	1 per every 350 square feet of gross area
Eating, drinking establishment	1 per every 4 seats
Industrial	1 per each 1.2 employees, based on the highest expected employee occupancy in the 10 year period following the date of the application
Funeral home	1 per every 75 square feet of floor space
Other uses	As required by the Planning Commission after site plan review.

6.3 **General.**

6.3.1 An applicant for a permit may request the Planning Commission to authorize the issuance of a permit waiving the physical development of all of the off-street parking spaces required in accordance with the foregoing chart. If the Planning Commission finds, after hearing, that the applicant has demonstrated that the applicant's requirement for physically developed parking spaces will be fewer in number than the number computed according to the foregoing chart, then the Planning Commission may authorize the issuance of a permit requiring such lesser number of parking spaces as the Planning Commission finds is appropriate. If the Planning Commission authorizes the issuance of a permit pursuant to this section, it shall be a condition of the permit that if

the physically developed parking spaces prove in actual practice to be insufficient to accommodate the applicant's parking requirements, the Planning Commission shall require the physical development of additional parking spaces sufficient to meet the actual parking requirements but not to exceed the number required by the foregoing chart.

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

ARTICLE VII

SUBDIVISION REGULATIONS

7.1 **Adoption and Purpose.** The Town of Lyndon hereby adopts the following Subdivision Bylaw pursuant to 24 V.S.A. §4413 et seq. This Bylaw is intended to be A Subdivision Bylaw within the meaning of 10 V.S.A. §6001(3). This Subdivision Bylaw is adopted for the purpose of assuring the orderly and coordinated development of real estate within the town. It is also the purpose of this Subdivision Bylaw to prevent the creation, by subdivision, of lots that do not comply with all of the lot requirements in the zone in which the lot is located. It is also the purpose of this Subdivision Bylaw to provide a mechanism for the accurate description of lots of land when they are created as the result of a subdivision.

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

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

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

7.5 **Regulations Governing Minor Subdivisions.**

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

7.5.2 A person desiring to create a minor subdivision shall submit an application therefor to the Administrative Officer. The application shall be accompanied by:

7.5.2.1 A survey map of the subdivision prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated.

7.5.2.2 A completed application in the form authorized by the Board and signed by the applicant and, if the applicant is a person different from the owner, the owner of the parcel,

7.5.2.3 The names and addresses of all adjoining property owners and, if any adjoining property is not occupied by the owner, the name and address of the occupier, and

7.5.2.4 The application fee.

7.5.3 The Administrative Officer shall review the application and the survey map. If the Administrative Officer finds that the subdivision as proposed complies in all respects with the Zoning Bylaws

applicable to the district in which the subdivision is located, he shall issue a permit authorizing the subdivision to the applicant.

7.5.4 If the Administrative Officer finds that the proposed subdivision does not comply in all respects with the Zoning Bylaws, the Administrative Officer shall deny the subdivision application.

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

7.5.6 The applicant shall record a copy of the subdivision permit in the land records, and a copy of the survey map in recordable form in the map records.

7.6 Regulations Governing Major Subdivisions.

7.6.1 Prior to filing an application for a permit authorizing a major subdivision, the applicant shall file a preliminary plat with the Planning Commission, together with a written request to the Planning Commission that it give preliminary consideration to the plat. Neither the preliminary plat nor the written request needs to accomplish more than advise the Planning Commission of the location, nature and extent of the proposed subdivision. The preliminary plat shall show the manner in which the applicant intends to subdivide the parcel of land, showing any streets, utilities, tree plantings, landscaping and other features requested by the Zoning Administrator.

7.6.2 The Planning Commission shall, at the meeting of the Planning Commission next following the date on which the preliminary plat and request for preliminary consideration are filed, review the application to familiarize itself with the proposed subdivision.

7.6.3 Within 45 days after the date on which the preliminary plat and request for preliminary consideration have been filed with the Planning Commission, the applicant shall file an application for a subdivision permit. The application shall be accompanied by:

7.6.3.1 A survey map of the subdivision prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated,

7.6.3.2 A completed application, in such form as is authorized by the Planning Commission and signed by the applicant and, if the applicant is a person different from the owner, the owner of the parcel to be subdivided,

7.6.3.3 The names and addresses of all adjoining property owners and, if any adjoining property is not occupied by the owner, the name and address of the occupier, and

7.6.3.4 The application fee.

7.6.4 The Planning Commission shall consider the application at the meeting of the Planning Commission next following the date on which 15 days have elapsed after the filing of the application.

7.6.5 The Planning Commission shall, within 45 days after the hearing on which the application is first considered, approve, approve with modifications, or disapprove the application.

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

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

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

7.6.8 The applicant shall record a copy of the subdivision permit in the land records, and a copy of the survey map in recordable form in the map records.

ARTICLE VIII

MISCELLANEOUS

8.1 Regulations Required by the Act

8.1.1 Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this by-law, may be developed for the purposes allowed in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a width or depth dimension of no less than 40 feet.

8.1.2 No land development may be permitted on any lot which does not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such road or waters by a permanent easement or right-of-way of record at least 50 feet in width. The requirement of a 50 foot right-of-way

may be waived by the Planning Commission with respect to land development on a lot having a right-of-way in existence prior to the effective date of these Regulations.

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

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

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

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

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

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

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

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

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

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

8.11 **Storage of Flammable Liquids Above Ground**

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

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

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

8.12.1 In accordance with Section 4407 (8) of the Act, the removal of soil, sand or gravel for sale or for use on another lot may be allowed only after the Planning Commission approves, after public notice and hearing, a

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IX

SITE PLANS

9.1 Site Plan Approval.

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

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

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

9.1.3.1 One- and two-family dwellings,

9.1.3.2 A proposed use or structure that is determined by the Planning Commission, without a hearing being required, to have no effect on the adequacy of (1) traffic access, (2) circulation and parking, (3) landscaping and screening, (4) protection of the utilization of renewable energy resources, or

9.1.3.3 Agricultural uses or structures.

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

9.1.4.1 Name and address of the owner of record of the land in question and of all adjoining lands.

9.1.4.2 Name and address of person or firm preparing the map.

9.1.4.3 Scale and date of map, and north arrow.

9.1.4.4 Survey of the land in question showing existing features, contours, structures, large trees, streets, utility poles, easements of record, rights-of-way, and land use and deed restrictions.

9.1.4.5 Site plan showing proposed structures, location and elevations thereof and use to be made of other land subject to application; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.

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

9.1.5 When considering whether to approve or disapprove any site plan the Planning Commission shall consider the following matters:

9.1.5.1 Maximum safety of vehicular circulation between the site and the adjacent street network,

9.1.5.2 Adequacy of circulation, parking and loading facilities with particular attention to safety,

9.1.5.3 Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility with and protection of adjacent property, and

9.1.5.4 Protection of the utilization of renewable energy resources.

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

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

ARTICLE X

MOBILE HOMES

10.1 Mobile Homes

10.1.1 A mobile home may be placed on the construction site of a new residence for which a permit has been issued for a period not to exceed one year to be occupied by the persons who will occupy the new dwelling. The one year period may be extended by the Board, after notice and hearing, for good cause shown.

10.2 Mobile Home Park Permits

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

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

10.2.3 The Planning Commission may approve the site plan, approve the site plan with conditions, or reject the site plan. If the Planning Commission approves the plan with conditions, or rejects the plan, it shall state its reasons therefor.

10.3 Mobile Home Park Standards

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

- 10.3.1.1 Subject to the provisions of Section 10.3.1.9, a mobile home park shall have an area of not less than 2.5 acres, or 8,000 square feet per mobile home lot, whichever is greater.
- 10.3.1.2 Mobile home parks shall provide for individual mobile home lots, access driveways, parking and recreation open space.
- 10.3.1.3 Each mobile home lot shall be at least 8,000 square feet in area, and at least 60 feet wide by at least 120 feet in depth, and shall front on an access driveway.
- 10.3.1.4 All driveways providing access to the Mobile Home Park shall be at least 20 feet in width and have an asphalt or concrete surface, or gravel surface treated with calcium chloride or other appropriate treatment, at least 20 feet in width and 12 inches in depth of compacted gravel.
- 10.3.1.5 Two parking spaces, each at least 10 feet wide by 22 feet long, shall be provided for each mobile home lot.
- 10.3.1.6 At least twenty percent of the total area of the Mobile Home Park shall be reserved for recreation and open space purposes.
- 10.3.1.7 A suitable pad shall be provided for each mobile home.
- 10.3.1.8 Each mobile home lot shall have an attachment for water supply. The water supply source for the park shall be approved by the appropriate State Agency, or by the Planning Commission if no State Agency is empowered to grant such approval.
- 10.3.1.9 Each mobile home lot shall have an attachment for sewage disposal. The method of sewage disposal shall be in compliance with applicable state regulations. No sewage disposal system for an individual mobile home shall be located on a mobile home lot unless the dimensions of the lot satisfy the regulations applicable to the district in which the lot is located.
- 10.3.1.10 No mobile home lot, office building or service building shall be located closer than 50 feet to a public street right-of-way line or a property line.
- 10.3.1.11 A buffer strip of land at least 25 feet in width shall be maintained as a landscaped area abutting all mobile home park property lines.
- 10.3.1.12 Space for an accessory building of at least 100 square feet shall be provided with each individual mobile home lot.

ARTICLE XI

FLOOD HAZARD AREA REGULATIONS

11.1 Flood Hazard Areas

11.1.1 Notwithstanding any other sections of these bylaws, no land development may be commenced in those portions of the Town of Lyndon designated and described and bounded as (a) Special Flood Hazard Area Inundated by 100-year Flood as shown on a Flood Insurance Rate Map for the Town of Lyndon as published by the Federal Emergency Management Agency, as the same may be amended from time to time or (b) a regulatory floodway as shown on said Map, without first obtaining a Flood Hazard Area permit issued by the Administrative Officer following approval by the Board.

11.1.2 An application for a Flood Hazard Area permit shall be approved if the Board finds that:

11.1.2.1 The proposed land development is (a) designed and anchored to prevent flotation, collapse or lateral movement of the structure; (b) constructed of materials and utility equipment that are resistant to flood damage; and (c) constructed using methods and practices that will minimize flood damage.

11.1.2.2 The proposed land development is (a) consistent with the need to minimize flood damage; (b) designed so that all public utilities and facilities including but not limited to sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and (c) designed so that adequate drainage is provided so as to reduce exposure to flood hazards.

11.1.2.3 New or replacement water supply systems and/or sanitary sewage systems are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and that on-site waste disposal systems are located so as to avoid impairment of them or contamination from them during flooding.

11.1.2.4 Materials, including flammable, dangerous or hazardous liquids, will not be subject to damage by flood waters and will be firmly anchored to prevent flotation.

11.1.2.5 The elevation of the lowest floor (including basement) of any residential building, is at least one foot above the elevation of the 100-year flood. Within unnumbered "A" zones, the applicant shall obtain, and provide to the Board for its review and utilization, any base flood elevation data available from a Federal, State or other source to make this determination.

11.1.2.6 The elevation of the lowest floor (including basement) of any non-residential structure is at least one foot above the elevation of the 100-year flood or that the structure, together with attendant utility and sanitary facilities, is designed so that below the base flood level the structure is watertight and walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Within unnumbered "A" zones, the applicant shall obtain, and provide to the Board for its review and utilization, any base flood elevation data available from a Federal, State or other source to make this determination.

11.1.2.7 Where floodproofing is used in lieu of elevation, a registered professional engineer or architect has certified that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood.

11.1.2.8 Mobile homes are anchored to resist flotation, collapse or lateral movement by: (a) over-the-top ties at each of the four corners of the mobile home with an additional tie per side for mobile homes less than 50 feet long or, for mobile homes 50 feet or longer, two additional ties at intermediate locations; and (b) frame ties at each corner with four additional ties per side at intermediate points for mobile homes 50 feet or longer. All components of the anchoring system

shall be capable of carrying a force of 4,800 pounds and any additions to the mobile home shall be similarly anchored.

11.1.2.9 Mobile home stands or lots are: (a) elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the elevation of the 100-year flood; (b) provided with adequate surface drainage and access for the hauler; and (c) in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level.

11.1.2.10 No land development is proposed to be located within the floodway.

11.1.2.11 Any proposal to alter or relocate a watercourse in a flood hazard area will not diminish the flood-carrying capacity of the watercourse.

11.1.2.12 All necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

11.1.2.13 Mobile home parks as defined in 24 V.S.A. 2232, mobile home subdivisions, junk yards as defined in 24 V.S.A. 2241(7), and sanitary landfills as defined in 10 V.S.A. 6602(11), shall not be permitted within any flood hazard area.

11.1.3 Applications shall be made to the Administrative Officer on forms provided for that purpose and shall be accompanied by plans in triplicate showing, in addition to other information required by other section of these bylaws:

11.1.3.1 The location and dimensions of the lot and existing and proposed structures.

11.1.3.2 The distance between the stream channel and existing and proposed structures.

11.1.3.3 The elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially-improved structures.

11.1.3.4 The elevation (in relation to mean sea level) of the 100-year flood.

11.1.3.5 The elevation (in relation to mean sea level) to which a structure will be floodproofed when floodproofing is used in lieu of elevation.

11.1.4 Upon receipt of an application and plans, the Board shall:

11.1.4.1 Set a date for a public hearing which shall be within thirty (30) days of the filing of the completed application with the Board.

11.1.4.2 Notify adjacent communities and the Vermont Department of Water Resources of any proposals to alter or relocate any watercourse in a flood hazard area and submit copies of such notification to the Federal Insurance Administration.

11.1.4.3 Give public notice of the hearing by the publication of the date, time, place and purpose of such hearing in a newspaper of general publication in the municipality and the posting of such notice in one or more public places within the municipality not less than fifteen (15) days prior to the date of the public hearing.

11.1.4.4 Mail to the applicant a copy of the public notice at least fifteen (15) days prior to the hearing.

11.1.4.5 Conduct the hearing in accordance with the procedures outlined in 24 V.S.A. 4462.

11.1.4.6 Render a decision on the request for a Flood Hazard Area use permit within the flood hazard area within sixty (60) days after completion of the hearing. Failure to act within sixty (60) days shall be deemed appropriate.

11.1.4.7 Mail copies of the decision to the applicant and a copy thereof shall be filed with the Town Clerk.

11.1.5 The Administrative Officer shall maintain a record of:

11.1.5.1 The elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially-improved structures, and whether or not such structures contain a basement.

11.1.5.2 The elevation (in relation to mean sea level) to which a structure has been floodproofed, if it is floodproofed pursuant to 11.11.1 (f&g).

11.1.6 In reviewing the proposed land development, the burden of proof shall be on the applicant.

11.1.7 Variances from these regulations shall be granted by the Board only:

11.1.7.1 In accordance with the provisions of 24 V.S.A. 4468.

11.1.7.2 Upon a determination that the variance will not result in increased flood heights, cause threats to public safety, cause public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances, and

11.1.7.3 Upon written notification to the applicant for a variance that: (a) the issuance of a variance to construct a structure below the elevation of the 100-year flood will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and (b) such construction below the elevation of the 100-year flood increases risks to life and property.

11.1.8 It is not intended by these regulations to repeal, abrogate, or impair any existing laws, regulations, rules, easements, covenants or deed restrictions. However, where these regulations impose additional restrictions over other laws, regulations, ordinances, rules, easement, covenants, or deed restrictions, the provisions of these regulations shall prevail.

11.1.9 These regulations do not imply that areas outside the flood hazard areas or land uses within such areas will be free from flooding or flood damages. These regulations shall not create any liability on the part of the Town of Lyndon or any officer or employee thereof or on any administrative decision lawfully made thereunder.

ARTICLE XII

PLANNED RESIDENTIAL DEVELOPMENTS

12.1 In accordance with the provisions of 24 V.S.A. 4407 (12) and (3), Planned Residential Developments are hereby permitted to encourage innovation in the design and layout of residential developments, and more efficient

use of land. Accordingly, the Planning Commission may modify the operation of these By-laws to an application for a permit for a Planned Residential Development, subject to the conditions set forth herein.

12.2 General Standards.

12.2.1 A Planned Residential Development shall comply with the following standards and conditions:

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

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

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

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

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

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

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

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

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

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

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

12.2.1.12 It will conform to the Town Plan.

12.3 Density Calculations.

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

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

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

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

12.5 Miscellaneous Provisions.

12.5.1 The application for a Planned Residential Development shall specify reasonable time periods within which each section of the development may be started and completed. The timetable shall be approved by the Planning Commission.

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

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

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

ARTICLE XIII

ADMINISTRATION AND ENFORCEMENT**13.1 Administrative Officer; Fees**

13.1.1 The Administrative Officer shall administer these bylaws pursuant to Section 4442 of the Act. The Administrative Officer shall enforce these Regulations literally and in so doing shall inspect developments, maintain records and perform all other tasks necessary to carry out the provisions of these bylaws. Appeals from any decision or act taken by the Administrative Officer shall be made as provided for in Sub-chapter 8 of the Act.

13.1.2 Fees shall be established by the Board of Selectmen.

13.2 Applications for Permits

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

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

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

13.2.1.3 The precise location of the land

13.2.1.4 The district or districts in which the land is located

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

13.2.1.6 A brief written description of the proposed development

13.2.1.7 The dates the development will commence and will be completed

13.2.1.8 The estimated cost of the development

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

13.2.1.10 A plot plan, drawn to scale, showing

13.2.1.10.1 the boundary lines of the land;

13.2.1.10.2 the location of the development;

13.2.1.10.3 existing and proposed set-backs from other buildings (if any) on the land and from the boundary lines of the land;

13.2.1.10.4 the exact location of on-site water and/or on-site sewage disposal facilities, if any;

13.2.1.10.5 the exact location of off-site water and/or off-site sewage disposal facilities, if any;

13.2.1.10.6 the size, location, design and construction of any proposed sign; and

13.2.1.10.7 the location of any land affected by the application that lies within a flood hazard area or is in the National Wetlands Inventory;

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

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

13.4 The procedure for granting or denying permits shall be as provided in Subchapter 7 of Chapter 127, Title 24, Vermont Statutes Annotated.

13.5 An application shall be denied immediately if any required fee, plot plan, or any required approval from the Planning Commission or the Board are not submitted with the application.

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

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

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

13.9 In connection with the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of Section 4443 of the Act.

13.10 Certificates of Occupancy.

13.10.1 No person shall use or occupy, or permit the use or occupancy, of any land or structure that is created, erected, converted, changed, altered or enlarged after the effective date of this by-law, unless upon completion the Administrative Officer certifies in accordance with the Act that the location and proposed use of the structure or land conforms to the requirements of the zoning permit that was granted in connection therewith.

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

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

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

13.11 **Penalties.** Any violation of these bylaws is subject to penalty as provided in Sections 4444 and 4445 of the Act.

13.12 **Referral to State Agency.** In accordance with Section 4409(c) of the Act, no zoning permit for the development of land in certain locations specified in said Section shall be issued by the Administrative Officer without (a) first submitting a report to the appropriate state agency, and (b) compliance with the terms of Section 4409(c).

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

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

ARTICLE XIV

AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

14.1 **Amendments.** These bylaws may be amended according to the requirements and procedures established in Sections 4403 and 4404 of the Act.

14.2 **Interpretation.**

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

14.2.2 Except as is provided in Section 4409(b) of the Act, and where it is specifically provided to the contrary in these bylaws, these bylaws are not intended to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these bylaws impose a more stringent requirement upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these bylaws shall control.

14.3 **Effective Date.** The effective date of these bylaws shall be determined according to Section 4404 of the Act.

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

14.5 **Repeal.** The ordinance entitled the "Zoning Ordinance of the Town of Lyndon," adopted in accordance with the now superseded provisions of Vermont Statutes Annotated, Title 24, Chapter 67, together with all changes and amendments thereto is repealed as of the effective date of these bylaws.

ARTICLE XV

PERSONAL WIRELESS SERVICE FACILITIES

15.1 Applicability.

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

15.2 Purpose.

The purpose of this Article 15 is to:

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

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

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

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

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

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

15.3 Authority.

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

15.4 Certain Requirements of Federal Law.

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

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

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

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

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

15.5 Permits.

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

15.6 The Application.

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

- 15.6.1 the landowner(s) of record of the applicable site;
- 15.6.2 if the applicant is not a natural person, the state in which it is organized and the street and mailing addresses of its principal office;
- 15.6.3 the name(s), address(es) and telephone number(s) of the person(s) to be contacted about the application;
- 15.6.4 the person(s) authorized to act on the applicant's behalf in the event of an emergency affecting the facility;
- 15.6.5 engineering reports addressed to the Boards from qualified and licensed engineers, each bearing the engineers' signatures, stamps or seals, and registration numbers:
 - 15.6.5.1 describing the height, design and elevation of the facilities;
 - 15.6.5.2 certifying the height above grade for all proposed mounting positions for any antennas to be located on a structure and the minimum separation distances between the antennas;
 - 15.6.5.3 describing the capacity of a proposed structure, including the number, height, width and type of facilities that the applicant expects the structure to accommodate;
 - 15.6.5.4 describing how the applicant will avoid radio frequency interference with any existing or approved personal wireless services in the Town and surrounding areas including information demonstrating there will be no interference, and evidence that the information has previously been provided to public safety agencies and other providers or users of telecommunications services that might be affected by the applicant's facilities;
 - 15.6.5.5 demonstrating that no existing facilities or other structures, whether within or outside of the Town, can reasonably be used or modified to enable the applicant to provide adequate personal wireless services in the Town;
 - 15.6.5.6 identifying changes to existing facilities or sites in their current state that would enable the applicant to provide adequate personal wireless services in the Town;
 - 15.6.5.7 describing the output frequency, number of channels, power output per channel, signal pattern and area of coverage for each proposed facility;
 - 15.6.5.8 if applicable, stating reasons for seeking capacity in excess of the applicant's immediate requirements, as well as plans the applicant has for the development of additional personal wireless service or facilities within the Town or within a radius of 15 miles of the Town;
 - 15.6.5.9 describing the radio frequency radiation at the site, whether the personal wireless services the applicant proposes to provide are regulated by any state or federal agency, and the evidence on which the statement is based; certifying that the personal wireless services and facilities will comply with all applicable federal and state laws and regulations; and
 - 15.6.5.10 providing any other information required by the Board with respect to a particular application for a permit;
- 15.6.6 a binding commitment obligating the applicant, the landowner and its, his, her or their successors to permit shared use of a proposed structure at commercially reasonable cost if additional users agree to satisfy

reasonable terms and conditions for shared use including compliance with all applicable Federal and State regulations and the standards and requirements of this Article XV;

- 15.6.6.1 in the case of an application to install a facility on an existing structure, a copy of the applicant's contract with the owner of the existing structure; and
- 15.6.6.2 if one is required by the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4347, a copy of the Environmental Assessment final report.

15.7 Requirements for Applications for Site Plan Approval.

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

15.7.1 a copy of a portion of the most recent USGS Quadrangle map showing the area within a five mile radius of the proposed site;

15.7.2 a map showing the area within a 1250-foot radius of the site drawn at the scale of one (1) inch equals one hundred (100) feet, including the facilities, topography, public and private roads and driveways, buildings and structures, bodies of water, wetlands, landscape features, historic sites and wildlife habitats. This map shall show the property lines of the proposed site and all easements or rights of way needed for access from a public way to the facilities;

15.7.3 proposed site plans of the personal wireless service facilities showing all improvements including but not limited to landscaping, utility lines, guy wires, screening, building footprints and roads;

15.7.4 building elevations of all facades indicating all exterior materials and colors of the personal wireless service facilities;

15.7.5 in the case of a proposed site for a tower, the average height of the existing vegetation within 200 feet of the base of the tower;

15.7.6 sequence and time schedule for completion of the construction of each phase of the facilities; and

15.7.7 such other information required by the Board with respect to a particular application.

15.8 Design Requirements for Personal Wireless Service Facilities.

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

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

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

15.8.4 The Planning Commission may impose conditions requiring that ground mounted equipment, antennas and structures be screened from view.

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

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

15.9 Changes to Existing Personal Wireless Service Facilities.

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

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

15.10 Lighting, Signs and Noise.

Facilities shall not be illuminated by artificial means unless such lighting is required by federal or state law or regulation. Any lighting shall be subject to review and approval by the Board. The Board may require that the design of a proposed facility be altered to eliminate the need for lighting. No signs or lettering shall be placed on a tower or antenna unless required by federal or state law or regulation. Noise created by the existence or from the operation of any facility shall be undetectable at the perimeter of the site on which facilities are located.

15.11 Temporary Wireless Communication Personal Wireless Service Facilities.

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

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

15.12 Abandoned Personal Wireless Facilities.

Abandoned facilities shall be removed as follows:

- 15.12.1 a facility or an element thereof shall be deemed to have been abandoned if (i) it is not placed in service within two (2) years of the date on which a zoning permit for the facility was issued, or (ii) if it is not used for more than 180 days in any calendar year other than the first year of its operation; and
- 15.12.2 abandoned personal wireless service facilities shall be removed within 180 days of cessation of use unless an extension of time is granted by the Board for good cause shown. In the event a personal wireless service facility is not removed within 180 days of the cessation of use, the Town shall notify the permittee and the owner of the affected land and the Town may remove any or all of the facilities. Costs of removal shall be assessed against and paid by the property owner and the owner of the personal wireless service facilities.

15.13 Bond.

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

ARTICLE XV

Definitions

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

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

"Administrative Officer" means the administrative officer for the Town of Lyndon appointed pursuant to 24 V.S.A. § 4442.

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

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

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

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

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

"Board" means the Zoning Board of Adjustment for the Town of Lyndon established pursuant to the Act.

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

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

"Day Care Center" means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six children under the age of 16 outside of their homes for periods of less than 14 hours per day by a person other than a child's own parent, guardian or relative. "Day Care Center" also means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six adults with physical, emotional or cognitive impairment outside of the adult's home for periods of less than 24 hours per day by persons other than the adult's parent, guardian or relative. (Note: pursuant to Section 4409(f) of V.S.A. 24, a state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of property.)

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

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

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

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

related by blood, marriage, adoption, potential adoption or foster care, living together as a single housekeeping unit.

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

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

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

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

"Home Occupation" is an occupation carried on for profit inside of a dwelling unit, which is customary in residential areas, does not use more than a minor portion of the occupant's dwelling, is carried on by the occupant of the dwelling, does not change the character of the area in which it is situated, is secondary to the use of the property as a dwelling by the residents thereof, and is not advertised by signs on the property. Examples of a home occupation are music lessons, child day care for not more than 2 children, dressmaking, bookkeeping, small engine repair, and other similar and conventional uses that cannot be detected or observed outside of the dwelling.

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

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

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

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

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

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

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

"Neighborhood Facility" means a building or a portion of a building used for a commercial facility selling food for consumption off the premises, household goods, beer and wine, newspapers, magazines, patent medicines and

sundries intended principally to serve the Residential Neighborhood in which it is located, and not exceeding 600 square feet in area.

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

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

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

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

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

"Planned Residential Development" has the meaning assigned to it in Section 4407(3) of the Act.

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

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

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

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

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

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

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

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

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

"Structure" means an assembly of materials for occupancy or use including, but not limited to, a building, mobile home, trailer, tractor trailer, billboard, or sign. For the purpose of this bylaw, the term structure does not include a wall or fence.

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

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

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

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

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

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

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

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

TOWN OF LYNDON ALLOWED LAND USE MATRIX

LAND USE	DISTRICT												
	P=PERMITTED USE; C=CONDITIONAL USE												
	RURAL RESIDENTIAL	RESIDENTIAL NEIGHBORHOOD	VILLAGE COMMERCIAL	PARK	INDUSTRIAL	COMMERCIAL	MAIN STREET						
AGRICULTURE	P												
ASPHALT, CEMENT, AGGREGATE PLANT													
AUTOMOBILE SERVICE STATION													
BANK													
BAR													
BED AND BREAKFAST	P												
BULK STORAGE OF DANGEROUS MATERIALS													
BULK STORAGE OF PETROLEUM PRODUCTS													
CAMPGROUND		C											
CAR WASH													
CEMETERY		C											
CHURCH		C											
COMMERCIAL													
COMMUNITY CARE HOME													
COMMUNITY CENTER													
CONVENIENCE STORE													
DAY CARE CENTER		C											
DRIVE IN RESTAURANT													
EXTRACTION OF EARTH RESOURCES		C											
FAIRGROUNDS		C											
FORESTRY	P												
FUEL DISTRIBUTION													
FUNERAL HOME													
GUEST HOUSE FOR TRANSIENTS NO MEALS	P												
HOME OCCUPATION	P												
HORSE BOARDING AND RIDING FACILITIES		C											
INCINERATOR													
INDOOR RECREATION													
INDOOR THEATER													
JUNK YARD													
LIGHT INDUSTRY		C											
LUMBER YARD													
MANUFACTURING, FABRICATING, ETC.													
MEDICAL CLINIC		C											
MOBILE HOME PARK		C											
MOTEL													
MOTOR VEHICLE REPAIR													
MULTI-FAMILY DWELLINGS		C											
MUNICIPAL USES													
NEIGHBORHOOD FACILITY													
NON PROFIT RECREATION													
OFFICE													
OFFICES (MAIN STREET)													
OTHER GENERAL COMMERCIAL USES													
OTHER GENERAL INDUSTRIAL USES													
OTHER USES SIMILAR TO AND COMPATABLE WITH...		C											
OUTDOOR RECREATION AND STRUCTURES													
PARKING													
PERSONAL SERVICE ESTABLISHMENTS													
PERSONAL WIRELESS SERVICE FACILITIES													
PLANNED RESIDENTIAL DEVELOPMENT		C											
PRIVATE CLUB													
PUBLIC BUILDINGS													
PUBLIC FACILITY													
RECREATIONAL CAMPS	P												
RECYCLING CENTER													
RESEARCH OR TESTING LAB													
RESTAURANT													
RETAIL SERVICE													
RETAIL STORE													
RETAIL STORE (MAIN STREET)													
SANITARY LANDFILL													
SCHOOL		C											
SINGLE FAMILY DWELLINGS	P												
SLAUGHTERHOUSE													
TELECOMMUNICATIONS & TELEPROCESSING FAC													
TRANSIENT LODGING													
TRAVEL TRAILER PARK													
TRUCK TERMINAL													
TWO FAMILY DWELLINGS	P												
WAREHOUSE													
WHOLESALE DISTRIBUTION													

TOWN OF LYNDON MINIMUM REQUIREMENTS FOR DEVELOPMENT

(All numbers for lot size are in square feet, and setbacks are in feet.)

CLASS	MIN LOT SIZE - 2 FAMILY	MIN LOT SIZE - 1 FAMILY	FRONT-AGE	MIN FRONT SETBACK	MIN REAR SETBACK	MIN SIDE SETBACK	MIN BUFFER	MAX % LOT COVER
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RURAL RESIDENTIAL

1	30,000	20,000	100	40	25	25	10	20
2	40,000	25,000	125	40	25	25	10	20
3	60,000	40,000	150	40	25	25	10	20

RESIDENTIAL NEIGHBORHOOD

1	25,000	20,000	100	40	25	25	10	20
2	35,000	25,000	125	40	25	25	10	20
3	40,000	35,000	125	40	25	25	10	20

VILLAGE COMMERCIAL

1	15,000	10,000	65	30	25	15	10	20
1	Commercial only:	4000	50	0	0	0	0	100

PARK

1	8500	8500	65	30*	25	10	5	20
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*30 Feet OR in line with other residences on the street.

INDUSTRIAL

1	One Acre		150	50	25	25	10	25
2	Two Acres		200	50	25	25	10	25
3	Three Acres		250	50	25	25	10	25

Town of Lyndon Minimum Requirements (Cont - page 2)

CLASS	MIN LOT SIZE - 2 FAMILY	MIN LOT SIZE - 1 FAMILY	FRONT-AGE	MIN FRONT SETBACK	MIN REAR SETBACK	MIN SIDE SETBACK	MIN BUFFER	MAX % LOT COVER
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LYNDON CORNER INDUSTRIAL

2	Three Acres	400	50	75	75	75	75	20
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COMMERCIAL

1	30,000	20,000	100	40	25	25	10	20
2	40,000	25,000	125	40	25	25	10	20
3	60,000	40,000	150	40	25	25	10	20
ALL	All Commercial: 30,000		150	50	25	25	10	20

MAIN STREET

1	15,000	10,000	65	30	25	15	10	20
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Class 1 Only, Lot Area Per Family or Use, More Than Two

1 Story	4000 *	15,000**	65	30	25	15	10	20
2 Story	3000 *	15,000**	65	30	25	15	10	20
3 Story	1500 *	15,000**	65	30	25	15	10	20

* Required lot size per family and each commercial use. ** Minimum lot size.

INSTITUTIONAL CONTROL

1	30,000	20,000	100	40	25	25	10	20
2x *	40,000	35,000	125	40	25	25	10	20
1	All other: 1 Acre		150	50	25	25	10	20
2x *	All other: 2 Acres		200	50	25	25	10	20

* No on-site water.

Change to Attached Map

Change 1 to the Zoning By-laws includes the following change to the attached map, which extends northward the northern boundary of the Route 5 North commercial district (adjacent to Little Egypt). The northern boundary, as well as the eastern and western boundaries of the northern section of this commercial district, shall be defined as follows:

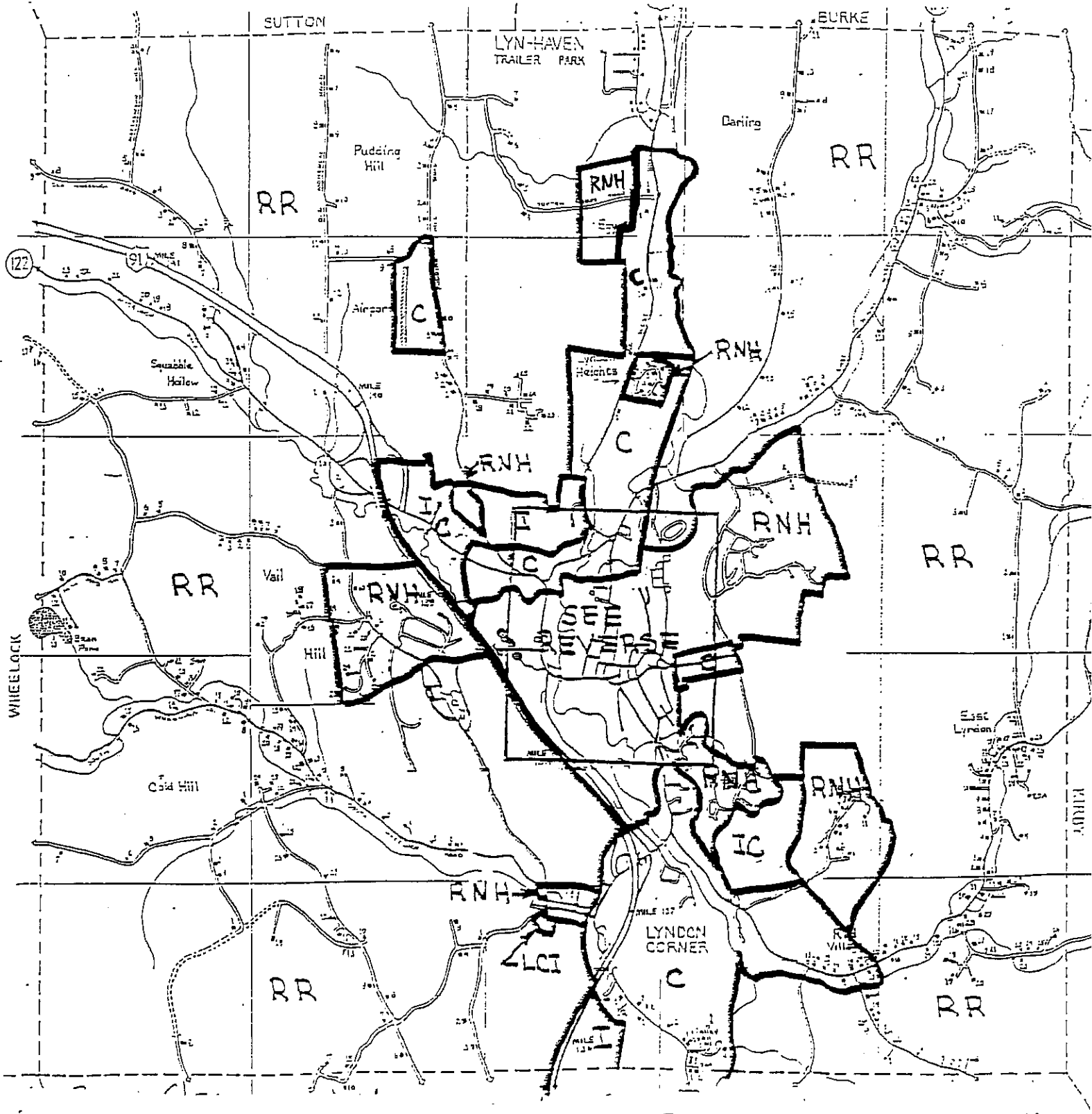
A. North: the northern boundary shall be defined as the southern property line of tax map parcels 247 (Crescent Lodge) and 151 (Mitchell).

B. East: The eastern boundary shall be the railroad tracks parallel and adjacent to the west branch of the Passumpsic River.

C. West: The western boundary shall be the western property line of the Mitchell property (tax map parcels 93, 108, and 246).

Note: The southern boundary of the Little Egypt residential neighborhood area shall remain the southern property line of tax map parcel 233 (Doyon).

LYNDON ZONING DISTRICTS



RR

IND

RR

Caledonia County Fairgrounds

Finney Hill

RR

CEMETERY

POWERS PARK

IND

IND

RNH

C

91

PASSUMPSIC

RNH

RNH

RR

LYNDON CENTER ROAD

RNH

TO

