



DEVELOPMENT AND LAND USE

REGULATIONS

FOR

THE TOWN OF JAY, VERMONT

ADOPTED: MARCH 2, 2010



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FOR THE TOWN OF JAY, VERMONT

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DEVELOPMENT & LAND USE REGULATIONS
FOR THE TOWN OF JAY, VERMONT

The Town of Jay has created a Planning Commission and has adopted and has in effect a municipal plan, herein referred to as the Town Plan, under Vermont Municipal and Regional Planning and Development Act hereafter referred to as the “Act”. In accordance with the Act there are hereby established Zoning regulations for the Town of Jay which are set forth in the text and maps that constitute these regulations. These regulations shall be known and cited as “the Town of Jay Development and Land Use Regulations.”

ARTICLE 1: PURPOSES

101: Location of Future Growth

The intent of the Town is to encourage future land development in order to provide a balanced community, to benefit to the citizens of Jay, without dramatically increasing tax burdens to pay for additional Town services, while providing for the future growth and orderly development of the Town with specific growth centers identified in the Town Plan.

102: Rate of Future Growth

The intent of the Town is to encourage a rate and character of land development that will preserve scenic, rural, and recreational values that are and will be important to the future economic health of the Town, while providing a sound and environmentally responsible economic base for the Town’s future.

103: The Natural Environment

The intent of the Town is to conserve its rural character, its air and water quality, and its productive lands in a manner consistent with the purpose set forth herein and the Town Plan.

104: General Purpose

It is the purpose of the Town of Jay Development and Land Use Regulations, herein after referred to as “Regulations” to implement the Town Plan, which is incorporated, herein by this reference. In addition, the Regulations are intended to achieve those purposes set forth in 24 VSA, Sections 4302 and 4401 which are hereby incorporated by this reference (see Appendix), accordingly. In order to implement the forgoing purposes, these Regulations provide for the review by the Town Planning Commission or Zoning Board of Adjustment of the potential impacts of development upon the natural, scenic and economic resources of the Town, in accordance with, and to implement the purposes of the Act, in order to secure for the Town a future that is fiscally stable and economically productive, while conserving its valuable scenic and natural resources for the generations yet to come.

105: Authorization

The Zoning Board of Adjustment and Planning Commission of the Town are authorized to carry out the provisions of these Regulations, pursuant to 24 VSA, Chapter 117

ARTICLE 2: EXISTING USES & LOTS

201: Non-conforming Uses & Structures

Any previously conforming use of land which is in effect at the date of these Regulations may continue even though it does not conform to the requirements of this Regulation; however, those non-conforming uses or non-conforming structures may not be extended, enlarged or changed to another non-conforming use without the owner obtaining a permit under these Regulations. Additionally, a non-conforming use or a non-conforming structure that has been discontinued for a period of twelve (12) contiguous months or more shall be considered to be abandoned and shall require a permit to reinstate the non-conforming use or non-conforming structure. All currently existing land uses which are listed as Conditional Uses in this Regulation shall be considered approved to have a Permit for such use. Any change of use requires a new permit application.

202: Existing Small Lots

Existing lots that are smaller than the dimensions required by these Regulations may be developed under the conditions specified by 24 VSA, Section 4412(2).

- 202.01 Any lot that is legally subdivided, is in separate, and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of these Regulations may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new regulation or interim regulation. Any lot that is less than one-eighth acre in area; or has a width or depth dimension of less than 40 feet may not be developed.
- 202.02 If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming small lot shall not be deemed merged and may be separately conveyed if all of the following apply:
- A. The lots are conveyed in their preexisting, nonconforming configuration.
 - B. On the effective date of any regulation, each lot was developed with a water supply and wastewater disposal system.
 - C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 - D. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems or both, in case there is a failed system or failed supply as defined in 10 VSA, Chapter 64.

203: Uses Not Requiring a Permit

The following uses or developments may be commenced and maintained without a permit under these Regulations, provided the structures as constructed, reconstructed or altered comply with the requirements following:

- 203.01 The construction and maintenance of accessory uses or structures not exceeding 64 square feet in the floor area.
- 203.02 The reconstruction of an existing structure for the same use and of the same or smaller dimensions as existed immediately prior to reconstruction.
- 203.03 The interior alteration of an existing structure when such alteration will be used only for the same use as the existing structure.

204: Limitations on Municipal Regulations.

Nothing in these Regulations shall be interpreted to regulate anything that a Municipality is prohibited from regulating pursuant to 24 VT Stat. Ann. Section 4413, which is attached hereto

205: Telecommunications

These regulations shall comply with the requirements set forth in 24 Vt Stat. Ann. Section § 4412(8) which currently provides as follows:

(A) Communications antennae and facilities. No permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

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

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

(D) The town may regulate communications towers, antennae and related facilities provided that such regulations do not have the purpose or effect of being inconsistent with §4412(8)(A) through (C).

(E) De minimis telecommunications impacts. An officer or entity designated by the town shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the Regulations, shall approve the application.

**ARTICLE 3: LOCATION OF & DEVELOPMENT
WITHIN ZONING DISTRICTS**

301: Zoning Map & Districts:

301.01 The official zoning map for the Town of Jay shall be located in the office of the Jay Town Clerk. The official zoning map shall be the sole and final authority as to what land and water in the Town is incorporated in each Zoning District.

The Town of Jay shall be divided into the following Districts that shall be depicted on the Town of Jay Zoning Map:

CR	Conservation - Recreation District
VC	Village Center District
RDI	Rural District I
RDII	Rural District II
REC	Recreation District
HD	High Density District

301.02 Copies of the Zoning Map: The official zoning map shall be located in the office of the Jay Town Clerk.

301.03 District Boundaries: District boundaries shown within the lines of roads, streams and transportation rights-of-ways shall be deemed to follow the centerlines. The abandonment or roads shall not effect the location of district boundaries. When the Zoning Administrator cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Planning Commission shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Regulation.

301.04 District Objectives and Land Use Controls: Article 3, Sections 302-307 provide the objectives of each of the districts hereby established and the provisions of this Regulation that apply respectively in each district. Any use designated as a "Permitted Use" relating to a particular district may be commenced in such district pursuant to Article 7, Section 704 of this Regulation. Any use designated as a "Conditional Use" in the table relating to a particular district may be commenced in such a district pursuant to Article 7, Section 706 of this Regulation.

302: Village Center District

302.01 This District will provide the commercial growth center for the Town, concentrating those intense uses of land and facilities where public utilities are provided efficiently and cost effectively.

Permitted Uses

1. Agriculture*
2. Residential**

*This Regulation shall not regulate accepted agricultural and silvicultural practices,

Including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

**See section 302.05 below

Permitted Uses (Subject to Site Plan Review)

1. Bakeries
2. Commercial/Retail Facilities
3. Financial Institutions
4. Lodging Facilities
5. Post Office
4. Restaurants
5. Signs

Conditional Uses

1. Accessory Use Structures
2. Bars
3. Campgrounds
4. Church (see Sec. 204)
5. Clinic Services
6. Dance Halls/Night Clubs
7. Essential Services
8. Funeral Homes
9. Gas Stations
10. Light Industry
11. Major Industry
12. Mobile Home Parks
13. Outdoor Recreational Facility
14. Planned Unit Developments
15. Ponds
16. Private Recreational Facilities
17. Public Recreational Facilities
18. Professional Offices
19. Public Facilities (see Sec. 204)
20. Semi-public Recreational Facilities
21. Temporary Structures/Uses
22. Wholesale Facilities
23. Any Change in Use

302.02 Area and Dimensional Requirements

1. Minimum lot size 1/2 acre
2. Frontage 100 feet
3. Front Yard Setback 50 feet
4. Side yard setback 25 feet
5. Rear yard setback 25 feet
6. Building Height not to exceed 35 feet

302.03 Commercial / Retail Uses

Each commercial / retail use shall not exceed 10,000 square feet in gross floor area.

302.04 Parking

The following parking requirements shall supersede those requirements found in Article 4, Section 403.11 of the Regulation:

1. Retail uses: 1 parking space per 500 square feet of floor space
2. Lodging facilities: 1 parking space per room or sufficient parking demonstrated at site plan review.

302.05 Mixed Use

Within the Village Center District mixed use developments are permitted. Such structures shall include at least one commercial use that shall be the primary use of the building. Commercial use shall be facing the road and on the ground floor. Residential dwelling units and / or offices above or behind the commercial uses are permitted.

303: Rural District I

303.01 This District, being the largest, will provide most of the residential uses in the Town and will include those commercial and light industrial uses which can be designated and located to preserve and not adversely affect the scenic, natural and rural character of the District. In addition, that portion of the Town within Rural District I, adjacent to Route 242, will provide those tourist oriented uses which will be designated, screened and located to preserve, enhance and not adversely affect the scenic and natural values or the enjoyment and safety of vehicles and persons on / or using Route 242.

Permitted Uses

1. Agriculture*
2. Accessory Use Structure
3. Dwelling, Single Family
4. Dwelling, Two-Family
5. Dwelling, Accessory
6. Signs**

* This Regulation shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, pursuant to 10 V.S.A Section 1021(f) and 10 V.S.A. Section 1259(f) of 6 V.S.A. Section 4810.

**Pending Site Plan Review

Conditional Uses – The following uses are permitted upon receipt of a Conditional Use Permit

1. Bar
2. Cemetery
3. Church (see Sec. 204)
4. Commercial Retail Facility
5. Dance Hall
6. Dwelling, Multi-Family
7. Earth Resource Removal
8. Essential Services
9. Financial Institution
11. Light Industrial

12. Lodging
13. Mobile Home Park
14. Night Club
15. Outdoor Recreational Facility
16. Planned Unit Development
17. Pond
18. Private Recreational Facility
19. Public Facility (see Sec. 204)
20. Public & Semi-public Recreational Facility
21. Restaurant

303.02 Area and Dimensional Requirements

1. Minimum lot size 3 acre
2. Frontage 250 feet
3. Front Yard Setback 75 feet
4. Side yard setback 50 feet
5. Rear yard setback 50 feet
6. Building Height not to exceed 35 feet

304: Rural District II

304.01 This District is comprised those lands that lie above 2,500 feet in elevation and that consequently constitute an area whose resources are more susceptible to adverse effects of land development; those lands are also subject to special regulation under 10 V.S.A. Chapter 151 (Act 250)

Permitted Uses

1. Agriculture*
2. Forestry*
3. Accessory Use Structure
4. Dwelling – One Family
5. Dwelling – Two Families
6. Dwelling - Accessory
7. Signs**

* This Regulation shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, pursuant to 10 V.S.A. Section 1021(f) and 10 V.S.A. Section 1259(f) of 6 V.S.A. Section 4810.

**Pending Site Plan Review

Conditional Uses – The following uses are permitted upon receipt of a Conditional Use Permit

1. Earth Resource Removal
2. Essential Services
3. Private Recreational Facility
4. Public and Semi-public Recreational Facility

304.02 Area and Dimensional Requirements

1. Minimum lot size 10 acre
2. Frontage 250 feet
3. Front Yard Setback 75 feet
4. Side yard setback 50 feet
5. Rear yard setback 50 feet
6. Building Height not to exceed 35 feet

305: Recreation District

305.01 This District will provide a high-density recreation, vacation, residential and commercial growth center currently oriented around and supported by the Jay Peak Recreation Area and its facilities.

Permitted Uses

1. Dwelling – One family
2. Dwelling – Two families
3. Signs*

*Pending Site Plan Review

Conditional Uses – The following uses are permitted upon receipt of a Conditional Use Permit

1. Building height over 35' maximum
2. Commercial/Retail Facility
3. Light Industrial Facility
4. Earth Resource Removal
5. Lodging
6. Outdoor Recreational Facility
7. Planned Unit Development
8. Ponds
9. Private Recreational Facility
10. Public & Semi-public Recreational Facility
11. Public Facility (see Article 2, Section 204)

305.02 Area and Dimensional Requirements

1. Minimum lot size 1.5 acre
2. Frontage 200 feet
3. Front Yard Setback 75 feet
4. Side yard setback 50 feet
5. Rear yard setback 50 feet
6. Building Height not to exceed 35 feet

306: High Density District

306.01 This District includes lands that have already been subdivided into pre-existing lots, primarily for residential use.

Permitted Uses

1. Accessory Use Structure
2. Dwelling – One Family
3. Dwelling – Two Families
4. Dwelling, Accessory
5. Signs*

*Pending Site Plan Review

Conditional Uses – The following uses are permitted upon receipt of a Conditional Use Permit

1. Building Height exceeding 35 feet maximum
2. Mobile Home Park
3. Planned Unit Development
4. Ponds

306.02 Area and Dimensional Requirements

1. Minimum lot size ½ acre
2. Frontage 100 feet
3. Front Yard Setback 50 feet
4. Side yard setback 25 feet
5. Rear yard setback 25 feet
6. Building Height not to exceed 35 feet

307 Conservation - Recreation District

307.01 This District consists of Community owned land given to the Town of Jay for conservation and recreational use only. See the Town Management Plan for permitted and restricted uses according to the agreement with the Vermont Land Trust

**ARTICLE 4: STANDARDS FOR FUTURE GROWTH
AND LAND DEVELOPMENT**

401: Purpose of Standards

It is the purpose of ARTICLE 4 of these Regulations to provide a uniform set of standards for the Zoning Administrator, the Board of Adjustment, and the Planning Commission in evaluating proposals for future land development in accordance with these Regulations and the Town Plan.

402: General Standards

If the Zoning Board of Adjustment or Planning Commission, as the case may be, finds that the Applicant has demonstrated by sufficient evidence, that a proposed development, subject to any

conditions authorized pursuant to Article 1, Section 105, meets all of the following General Standards (402.01-402.07), it shall issue a permit to the applicant for the proposed development.

- 402.01 The development will not result in the pollution of air, ground or surface waters or cause an unreasonable reduction of the supply of groundwater. Any applicable criteria adopted or used by the State of Vermont may be used in making a determination under this section.
- 402.02 The proposed development will not result in increased traffic volume, speed or intensity adverse to public safety, to the adequate maintenance of existing roads, and to the reasonable use and enjoyment of the public highways. No development shall cause another property to be without highway access of at least 50 feet in width.
- 402.03 The proposed development will not result in increased demand for parking space on public highways, or provide less than the number of useable off-road parking spaces adequate to the proposed use or development. Any expansion of service or function beyond that specified in the initial application will require a new permit specifying any additional parking capacity.
- 402.04 The proposed development will not result in increased levels of noise, or light, or odor, any of which would disturb or diminish the reasonable enjoyment of the current and anticipated uses of other properties or be adverse to the public health and safety, or adversely affect the utilization of renewable energy resources.
- 402.05 The proposed development minimizes, to the extent found by the Board or Commission reasonable and practicable under the circumstances, the reduction of the productive potential of agricultural and forestry soils through the use of cluster planning and the provision of minimal coverage of land by Impermeable surfaces, and preserves existing natural features including wetlands, ponds, streams, and groundwater supplies.
- 402.06 The proposed development and its location, size, and character are consistent with the characteristics as designated in these Regulations of the District in which the development will be located, and are also consistent with the Town Plan.
- 402.07 The proposed development conforms to the Specific Standards found in 403.01- 403.20 of these Regulations

403. Specific Standards

- 403.01 Roads: All roads and vehicle rights of way to be constructed or maintained within and for a proposed development shall conform to the State of Vermont Road Standards as adopted by the Board of Selectmen of the Town. To the extent practicable, existing trees and stone walls within 50 feet of the edge of the right-of-way shall not be disturbed by the proposed development.
- 403.02 Minimum Lot Sizes: No lot in a respective District shall be created having less than the minimum required lot area, and providing further that the Planning Commission may increase the density and allow smaller lot sizes, under the conditions provided in ARTICLE 5 of these Regulations. All non-conforming lots in common ownership shall be combined.

403.03 Frontage and Set-Back: Any lot created through the subdivision process shall have no less than the minimum required frontage for the district in which such lot is located on all adjoining public highways or access to a public road or waters by way of a right-of-way of not less than 50 feet in width, and any structure (including all projections) on a lot shall comply with the minimum set-back requirements in the respective districts. For those lots fronting on a public right-of-way, the front yard setback shall be measured from the centerline of the traveled portion of the public right-of-way.

For those lots that have approved access to a public right-of-way the front yard setback shall be measured from the property boundary closest and most parallel to the public right-of-way. Side and rear yard setbacks shall be measured at the points of least distance between the structure and the nearest respective side or rear boundary of the lot (see Appendix).

Provided, however, that the minimum requirements may be reduced by the Commission under the conditions set forth in ARTICLE 5 of these Regulations. Areas required under this section (403.03) to satisfy setback requirements for one structure shall not be used to satisfy the same requirements for another structure.

403.04 Height of Buildings: No building may be constructed such that its building height exceeds 35 feet, except as otherwise allowed by the Zoning Board of Adjustment when reviewing an application for a waiver.

403.05 Shorelines: No structure or use may be created or maintained within 50 feet of the mean high water mark of any stream, pond or river, except as otherwise allowed by the Board of Adjustment in a permit for a conditional use issued under these Regulations. Human made ponds must comply with the 50 foot setback requirement with regard to public boundaries.

403.06 Location of Driveways: All driveways are to be located at least 75 feet from a street line intersection for all users. The Road Commissioner shall be contacted prior to development of any driveways.

403.07 Reclamation after Mining: Any development involving extraction, of earth resources, including sand and gravel, shall not be permitted unless the Zoning Board of Adjustment approves a plan for the reclamation of the land affected. Such plan shall be made a part of any permit application for the development.

403.08 Temporary Uses and Structures: Temporary permits may be issued by the Zoning Board of Adjustment for a period not exceeding one year, for uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

A. Portable or temporary storage units located at a property for more than 6 months require a zoning permit.

B. Portable and temporary storage units shall not be visible along Routes 242 & 105

403.09 Abandonment of Structures: Within one year after any building or structure has been destroyed, demolished, or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be covered or filled to the normal grade by the owner. If an owner wishes to propose an alternative disposition, application shall be made to the Board of Adjustment.

403.10 Burned Buildings: No owner or occupant of land in any District shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

403.11 Off-Street Parking: Off-street parking shall be provided as follows:

- A. Residential use – no fewer than three spaces per dwelling.
- B. Other uses - as required by the Planning Commission or Board of Adjustment pursuant to 402.03, but in no case less than three spaces.
- C. For purposes of computation the area of an off-street parking space shall be at least 300 square feet, having dimensions that provide adequate access from the public highway, adequate area for entry and exit from the parking space, and adequate room for approach to any vehicle.
- D. Commercial Village Center District according to 302.4

403.12 Signs: No sign may be installed, affixed or changed without a zoning permit. Signs in all Districts shall be subjected to site plan review and considered as a permitted use when meeting the following minimum requirements:

A. General Requirements:

- 1. Signs affixed to a building may not extend above the roof or parapet of the building.
- 2. Maximum height of a freestanding sign, including its support structure may not exceed 20 feet above finished grade.
- 3. Signs may be illuminated by external spot/flood lights shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be focused upon the sign only. Animated, flashing or intermittently lighted signs are prohibited. Signs illuminated whether internally or externally with Neon, Argon, Krypton or other gaseous substances excited by high voltage current are prohibited.
- 4. Signs shall not project over public right-of-ways.
- 5. All signs shall be constructed of durable materials, and must be maintained in good condition and repair at all times. Any sign destroyed or severely damaged by wind, weather, rot, vandalism or other causes must be removed or repaired within 120 days of damage. Any replacement sign must conform to this 403.12.
- 6. Additional on-site directional signs in residential or commercial districts, signs for parking, entrance and exit, deliveries, etc., will be considered by the Zoning Administrator upon application for a use permit.
- 7. No owner or occupant of property may display any sign for a business, including a home business, which is not actively being conducted on the site.
- 8. All signs must either be attached to a building or freestanding having its own structure.
- 9. All signs must be approved by the Zoning Administrator before being erected or affixed to the building.

- B. Signs for Home Occupations: One sign not exceeding 12 square feet is permitted to announce the name, address, profession or home occupation of the occupant of the premises on which said sign is located. The sign may be freestanding or attached to the structure, but only one sign is allowed.
- C. School, Church, Public Buildings: A bulletin board not exceeding 24 square feet is permitted in connection with a church, school, or similar public structure. The sign may be freestanding or attached to the structure but only one sign is allowed.
- D. Commercial Properties:
 1. A temporary sign not exceeding 24 square feet is permitted on property being developed, leased and/or sold. One such freestanding sign is permitted per plot and may be used to advertise and/or list the construction company or developer. Such sign shall be removed promptly when it has served its function.
 2. Two signs are permitted per business or industrial site, i.e. one freestanding and one attached to the building may be either projecting or affixed flat to the face of the building.
 3. Free standing signs may have no more than two faces with a maximum square footage of 50 square feet per face.
 4. Multiple businesses on the same property must be serviced by the same freestanding sign.
 5. Non-projecting signs attached to buildings shall not exceed 50 square feet. Projecting signs attached to buildings shall not exceed 25 square feet per face if double sided or 25 square feet if single sided. The area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all elements of the matter displayed. Frames and structural members bearing advertising matter shall be included in computation of surface area.

403.13 Travel Trailers: No Travel trailer may be occupied on any property for more than 30 cumulative days in any given year unless such travel trailer is connected to a state permitted sewage disposal system.

403.14 Scenic Corridor - Development on Lands with Frontage on Route 242 & 105: Development on lands with frontage on Route 242 outside of the Village Center District such as might be reasonably visible from the 'highway' shall be screened, located, and designed such as to minimize any adverse impact on the now existing scenic appearance of our scenic views from Route 242 & 105.

403.15 Public Events: All public events in the Town of Jay must register with the Jay Town Clerk 30 days prior to the event to ensure safety, security, parking and sanitation.

403.16 Change of Use: All commercial properties shall have a current zoning permit on file with the Town. Any change of use of a property shall require a new zoning permit.

- 403.17 Salvage yards: Salvage yards shall be screened from view by means of either a solid fence at least 8 feet in height or a natural vegetative buffer no less than 50 feet in width. Salvage shall be stored in such a manner as to prevent hazardous liquids; such as, but not limited to, battery acid, used motor oil and gasoline; and other hazardous materials from leaching into the soil and ground water.
- 403.18 Residential care home or group home: A residential care or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.
- 403.19 Home occupations: These Regulations shall not infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.
- 403.20 Child care facility: A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state of Vermont for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal Regulations.

ARTICLE 5: PLANNED UNIT DEVELOPMENTS

501: Purpose:

It is the purpose of ARTICLE 5 to advance one or more of the following goals and objectives:

- A. Enable and encourage flexibility and innovation in the design and development of land in such a manner as to promote the most appropriate and efficient use of land.
- B. Encourage compact pedestrian-oriented development.
- C. Promote a mix of residential uses and non-residential uses or both especially in the Village Center District or in other districts as deemed appropriate by the Planning Commission.
- D. Facilitate the adequate and economical provision of streets and utilities.
- E. Advance the goals of the Town Plan.
- F. Encourage the development of affordable housing.
- G. Conserve agricultural lands, forests, open space and other valuable natural resources.

- H. Preserve the rural and scenic qualities of the Town of Jay, all pursuant to 4417 of the Vermont Municipal and Recreational Planning and Development Act (VSA Chapter 117) herein referred to as the Act.

502: Application and Procedure

An application may involve a single or multiple landowners on a single parcel or a combination of properties. An application for a permit for a planned unit development shall be reviewed by the Planning Commission using the subdivision review process. The proposed Planned Unit Development shall include a proposed plan of the subdivision meeting the application requirements of Article 7 Section 712 of these Regulations, and the review and approval of the plan for the subdivision shall be done in accordance with the standards of ARTICLE 4 and Article 5, section 504 of these Regulations.

503: Modification of Requirements

The Planning Commission is hereby authorized pursuant to 24 V.S.A. 4417 to modify the requirements on any subdivision or development project governed by the provisions of Article 5, which are imposed by Article 4, Sections 403.02 through 403.04 of these Regulations, to the effect that the density of dwelling units on the lot may be increased to an amount in excess of the number otherwise permitted under these Regulations, if the Planning Commission finds that such modification will achieve the purpose of this article and those purposes set forth in 4417 of the Act by clustering the development, and will comply with other applicable Standards in ARTICLE 4 of these Regulations as deemed necessary and relevant by the Planning Commission.

504: Additional Specific Standards

In addition to the General and Specific Standards provided by other Articles of these Regulations, the following Specific Standards shall be complied with by any development, unless the applicant demonstrates to the Planning Commission, and the Commission so finds that one or more of the standards do not apply to the applicants proposal.

504.01 Residential Density

- A. Planned Unit Developments with single family dwellings shall not exceed a density of one dwelling per acre.

504.02 Streets

- A. Topography: Streets shall be logically related to the topography so as to produce useable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.
- B. Access: Year round access shall be provided for fire, ambulance, and police vehicles to within 60 feet of all principal structures. All new streets shall comply with the Town highway specifications.
- C. Access Roads: All access roads and dwellings need to be approved by the Road Commissioner. If the access road to the proposed project is a private road, the Commission may require the developer to improve the access road to Class 3 municipal highway construction standards in accordance with the Town Highway Ordinance. Such improvement shall provide no implied obligation on the municipality to accept ownership and the responsibility for future maintenance of

said road. If the access road to the subdivision is a Class 4 Town road, the Commission may require its upgrading at the developer's expense and subdivision approval may be conditional upon approval of the road class change by the legislative body.

- D. Curbs and Sidewalks: Curbs and sidewalks, may be required on at least one side of all streets and construction must conform to specifications provided by the Highway Superintendent.

504.03 Shade Trees: Selected shade trees in the right-of-way will be preserved when so indicated by the Road Commissioner.

504.04 Stone Walls: Stone walls within the right-of-way will be retained if practicable.

504.05 Open Space and Recreation Areas

- A. The Planning Commission will determine the amount, location, degree of public access and use of some or all of the open space in the proposed development.
- B. The Planning Commission will require as one of the criterion for approval that each development contain adequate provision for the recreation needs of its residents not otherwise provided for.
- C. The dedication or transfer of ownership of property located outside of the proposed development to the Town may be considered by the Planning Commission as adequate fulfillment of providing for the recreation needs of Town residents and in meeting the rural preservation goals of this Article.

504.06 Utilities: The dedication or transfer of ownership of public infrastructure such as sewer and water facilities or dedicated capacity thereof to the Town may be considered by the Planning Commission as adequate fulfillment of providing for the economic provision of utilities goals of this Article.

504.07 Operations and Management of Common Ownership

- A. The Planning Commission may require the establishment of an organization trust, homeowners association, or similar entity to provide for the ongoing operations, maintenance and management of commonly held property and infrastructure.
- B. The Planning Commission may require the payment of fees for the ongoing operations, maintenance and management of commonly held property and infrastructure if the Town will perform said operations, maintenance and management.

504.08 Applicable Lands: ARTICLE 5 only applies to development projects involving a land size of 25 acres or greater in all districts and must be approved by the Board of Adjustment.

ARTICLE 6: FLOOD HAZARD AREA REGULATIONS

601: Lands to Which These Regulations Apply

These Regulations shall apply to development in all areas in the Town of Jay identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Agency, and National Flood Insurance Program as provided by the Secretary of the Agency of Natural Resources pursuant to 10 VSA, Section 753, which are hereby adopted reference and declared to be part of these Regulations.

602: Conditional Use Permit Required

- 602.01 All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Jay zoning Regulation are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Zoning Board of Adjustment.
- 602.02 Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted to the Vermont Department of Environmental Conservation in accordance with 24VSA 4409. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.
- 602.03 Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 days prior to issuing a permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

603: Base Flood Elevations & Floodway Limits

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

604: Conditional Use Review Procedures

- 604.01 Upon receiving an application for a conditional use permit under the regulations, the Zoning Board of Adjustment, prior to rendering a decision thereon shall:
- A. Obtain from the applicant:

1. The elevation (relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved.
2. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood proofed.
3. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features.
4. Base flood elevation date for subdivisions and other proposed development which contain at least 50 lots or 5 acres (whichever is the smaller).
5. Such other information deemed necessary by the Zoning Board of Adjustment for determining the suitability of the site for the proposed development.

B. Obtain from the Vermont Department of Water Resources or other state or federal agencies any available base flood elevation data.

604.02 In reviewing each application, the Zoning Board of Adjustment shall consider:

- A. The evaluation of the Vermont Department of Water Resources.
- B. The availability of alternative locations not subject to flooding for the proposed use.
- C. The susceptibility of the proposed improvement to flood damage.
- D. The safety of access to the property in times of flood or ordinary and emergency vehicles.
- E. The potential for damage to the property caused by erosion.
- F. The danger that materials may be swept onto other lands and cause damage to others.
- G. Such other factors as are relevant to the purposes of this regulation.

604.03 The Zoning Board of Adjustment may grant a conditional use permit for development provided the development standards of 605 are met or exceeded.

605: Development Standards

605.01 Floodway Areas:

- A. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
- B. Salvage yards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

605.02 Fringe Areas:

- A. All development shall be designed:
 1. To minimize flood damage to the proposed development and to public facilities and utilities and;

2. To provide adequate drainage to reduce exposure to flood hazards.
- B. Structures shall be:
1. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood.
 2. Be constructed with material resistant to flood damage.
 3. Be constructed by methods and practices than minimize flood damage, and.
 4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and are located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- C. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- D. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- E. On-site waste disposal systems shall be located to avoid impairment to them and contamination from them during flooding.
- F. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home so that it is above the base flood elevation
- G. The lowest floor, including the basement, of all new buildings shall be at or above the base flood elevation.
- H. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet requirements of subsection 605 .02(G).
- I. Existing buildings to be substantially improved for non-residential purposes shall either:
1. Meet the requirements of subsection 605.02 (H) or;
 2. Be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- J. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either

be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 2. The bottom of all openings shall be no higher than one foot above grade.
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- K. Areas to be used for junkyards or for storage of floatable, hazardous or toxic materials shall be filled and graded to a least one foot above the base flood elevation.

606: Duties / Responsibilities of Administrative Officer

The Administrative officer shall maintain a record of:

- 606.01 All permits issued for development in areas of special flood hazard.
- 606.02 The elevation, in relation to mean sea level, or the lowest floor, including basement, of all new or substantially improved buildings.
- 606.03 The elevation, in relation to mean sea level, to which buildings have been flood proofed.
- 606.04 All flood proofing certifications required under this regulation.
- 606.5 All variance actions, including justification for their issuance.

607: Appeals and Variances

An interested person may appeal any decision or act taken by the administrative officer with respect to these development regulations by filing a notice of appeal in writing with the Zoning Board of Adjustment. Such appeal shall specify the relief sought and why it is felt that such relief is warranted. Such an appeal may include a request for a variance. Any such notice of appeal or request for a variance must be filed within fifteen days of the date of such decision or act, and a copy of the notice of appeal shall be filed with such officer. Failure to file an appeal within 15 days of the Zoning Officer's action shall result in the forfeiture of appeal rights. Appeals shall be filed and adjusted in accordance with 24 VSA, Sections 4465 through 4470.

An interested person may appeal any decision or act taken by the Zoning Board of Adjustment or the Planning Commission to environmental court in accordance with 24 VSA, Section 4471.

608: Variances to the Development Standards

Variances shall be granted by the Zoning Board of Adjustment only:

- 608.01 In accordance with the provisions of 24 VSA 4468 and 4412 (h) and in accordance with the criteria for granting variances found in 44 CFR, 60.6, of the National Flood Insurance Program regulations.
- 608.02 Upon a determination that during the base flood discharge the variance will not result in increased flood levels.

608.03 Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

609: Warning of Disclaimer of Liability

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create a liability on the part of the Town of Jay or any official or employee of the Town for any flood damages that result from reliance on this Regulation or any administrative decision lawfully made hereunder.

ARTICLE 7: ADMINISTRATION

701: Appointment and powers of Administrative Officer (§ 4448).

(a) An administrative officer, who may hold any other office in the municipality other than membership in the board of adjustment, shall be nominated by the planning commission and appointed by the legislative body for a term of three years promptly after the adoption of the first Regulations or when a vacancy exists. The compensation of the administrative officer shall be fixed under sections 932 and 933 of this title, and the officer shall be subject to the personnel rules of the municipality adopted under sections 1121 and 1122 of this title. The administrative officer shall administer the Regulations literally and shall not have the power to permit any land development that is not in conformance with those Regulations. An administrative officer may be removed for cause at any time by the legislative body after consultation with the planning commission.

(b) The planning commission may nominate and the legislative body may appoint an acting administrative officer who shall have the same duties and responsibilities as the administrative officer in the administrative officer's absence. If an acting administrative officer position is established, or, for municipalities that establish the position of assistant administrative officer, there shall be clear policies regarding the authority of the administrative officer in relation to the acting or assistant officer.

(c) The administrative officer should provide an applicant with forms required to obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by municipalities of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering its development review programs. The administrative officer should inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

(d) If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.

702: Planning Commission

(1) The Planning Commission shall consist of not less than five (5) or more than seven (7) members appointed by the Selectboard in accordance with 24 V.S.A. §§4321 - 4323. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Legislative Body.

(2) The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

(3) The Planning Commission shall have the following duties regarding this Regulation, in accordance with 24 V.S.A. §4441:

- A. to prepare proposed amendments to this Regulation, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least five percent of the voters of the Town of Jay.
- B. to prepare and approve written reports on any proposed amendment to this Regulation; and
- C. to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard.
- D. to hear and act upon applications for subdivisions of land, as described in Article 7, section 710 of this Regulation; and, planned unit developments, as described in Article 5 of this Regulation.

703: Zoning Board of Adjustment

(1) The Zoning Board of Adjustment shall consist of not fewer than three (3) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with 24 V.S.A. [§4460(b) and (c)]. Vacancies shall be filled by the Selectboard for the unexpired terms and upon the expiration of such terms. Any member of the Zoning Board of Adjustment may be removed for cause by the Selectboard upon written charges and after public hearing.

(2) The Zoning Board of Adjustment shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

(3) The Zoning Board of Adjustment shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- A. appeals from any decision, act or failure to act by the Administrative Officer, as described in Article 7, section 715 of this Regulation, and any associated variance requests, as described in Article 7, section 718 of these Regulations;
- B. applications for conditional use approval, as described in Article 7, section 711 of these Regulations;
- C. site plan approval, as described in Article 7, section 709 of these Regulations; and
- D. rights-of-way or easements for development of non-frontage lots, as described in Article 4, section 403 of these Regulations.

704: Application for Permit

Except as otherwise provided in Article 2, sections 203 and 204 of these Regulations, no development may be commenced without a permit therefore issued by the Zoning Administrator. No zoning permit

shall be issued except in conformance with this Regulation. Permits for development requiring approval by either the Planning Commission or the Zoning Board of Adjustment shall be issued by the Zoning Administrator only after such approvals have been granted.

The permit application form adopted by the Commission and Board shall be obtained from the zoning administrator. In the case of a subdivision, approval must be granted by the Zoning Board of Adjustment prior to the issuing of the application by the Zoning Administrator. The permit shall be posted in a public place and on the property for which the permit was issued. [See 24 VSA, §4449 (b).]

705: Notice of Filing of Application

A notice of the filing for all development review applications, and the date, time and place of the hearing thereon, shall be posted by the Zoning Administrator in the Town Clerk's office and in addition as required by 24 VSA, Section 4464.

706: Notice of Hearing

A notice of the filing of an application for a permit for a conditional use, or subdivision, and notices of times, dates and places of hearings on the application shall be delivered by the applicant, not less than five days after the applicant's filing of the application, to abutting property owners, those owners of the property directly across any town or state highway from the proposed development, and those owners who have annually informed the Zoning Administrator in writing that they wish to receive copies of such notice. All notification posting and recording fees are to be paid by the applicant.

707: Information to be furnished by an Applicant for PERMITTED USE as defined in 301.04 of these regulations

An applicant for a permitted use shall, with his or her application furnish the following information in duplicate to the Zoning Administrator, shown where applicable on a site plan at a uniform specified scale and showing compass direction, to the fullest extent applicable to the particular development applied for:

- 707.01 Name and address of the owner of record of the land for which the application is made, and the names and addresses of all adjoining landowners.
- 707.02 Description of all existing and proposed uses.
- 707.03 Exterior boundaries and lot lines and location of existing and proposed topographical features, elevations, uses, structures roads, driveways, parking areas, landscaping and site improvements, utilities, and other improvements, together with dimensions of any proposed structure, all certified by the applicant.
- 707.04 Location and design of existing and proposed water supply, sewage treatment and disposal, and surface water drainage systems, certified by the applicant.

When the above information is furnished to the Zoning Administrator by the applicant in form and detail complying with this section and sufficient enough for the Zoning Administrator to make a determination as to the application's completeness, together with the fee set by the Board of Selectmen, the application shall be considered complete for action by the administrative officer.

708: Waivers

Through the conditional use review process, the Zoning Board of Adjustment may grant variances to reduce dimensional requirements, in accordance with the specific standards outlined in Article 4, section 403 of this Regulation and in conformance with the town plan and the goals set forth in 24 V.S.A. section 4302. Waivers from the dimensional standards may be granted to allow:

- 708.01 Mitigation through design, screening, or other remedy;
- 708.02 Waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and
- 708.03 Provide for energy conservation and renewable energy structures.

709: Site Plan Review

No zoning permit shall be issued by the Zoning Administrator for any permitted use or structure previously identified as requiring site plan review until the Zoning Board of Adjustment grants site plan approval after public notice and hearing and in accordance with 24 V.S.A. §4416. In reviewing site plans, the Zoning Board of Adjustment may impose appropriate safeguards with respect to the following:

- A. The adequacy of parking
- B. Traffic access and circulation for pedestrians and vehicles
- C. Landscaping and screening
- D. The protection of the utilization of renewable energy resources
- E. Exterior lighting
- F. Size, location, and design of signs
- G. Erosion and sedimentation control
- H. Snow removal

710: Subdivisions of Land

- 710.01 Applications for subdivisions of land shall be submitted in accordance with Article 7, section 712 of these Regulations and this section and subjected to Site Plan Review by the Planning Commission after public notice and hearing. In accordance with 24 V.S.A. §4464(a)(1), the warning period for the public hearing shall not be less than 15 days.
- 710.02 Any application for subdivision of land shall be accompanied by a plat of sufficient scale and clarity to portray existing conditions and proposed development. The plat shall include all lot lines and boundary dimensions, names of roads abutting the property, location and size of existing improvements identified as “existing,” location and size of proposed improvements identified as “proposed,” setback dimensions of proposed and existing structures, location of existing and proposed driveways and culverts, location of existing and proposed wells and/or septic systems and location of waterways, wetlands, and floodplains. In addition, a topographic survey may be required.
- 710.03 The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded.

710.04 A final plat on mylar must be submitted to the Zoning Administrator for approval before the subdivision is filed in the Town's land records.

711: Conditional Uses

- 711.01 After public notice and hearing, the Zoning Board of Adjustment shall determine if a proposed conditional use has the potential to have an undue adverse effect on the following:
- A. The capacity of existing or planned community facilities.
 - B. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
 - C. Traffic on roads and highways in the vicinity
 - D. Regulations in effect with special reference to this zoning Regulation, and;
 - E. The utilization of renewable energy resources.
- 711.02 In permitting a conditional use, the Zoning Board of Adjustment may impose, in addition to the regulations and standards expressly specified by this Regulation, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:
- A. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
 - B. Limiting the coverage or height of buildings because of obstruction of view or reduction of light or air to nearby properties.
 - C. Controlling the location and number of vehicular access points to the property.
 - D. Increasing road width.
 - E. Increasing the number of off-street parking or loading spaces required.
 - F. Limiting the number, location, and size of signs.
 - G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property of a character in keeping with the surrounding area.
 - H. Specifying a specific time limit for construction, alteration, or enlargement of a structure to house a conditional use.

712: Information to be Furnished by an Applicant for SITE PLAN REVIEW, CONDITIONAL USE REVIEW, or SUBDIVISION REVIEW.

An applicant requiring site plan, conditional use, or subdivision review shall, with his or her application, furnish the following information in duplicate to the Zoning Administrator for the Planning Commission or Zoning Board of Adjustment as the case may be. Information shall be shown where applicable on a site plan at a uniform specified scale and showing compass direction, to the fullest extent applicable to the particular development applied:

- 712.01 Name and address of the owner of record of the land for which the application is made and of all adjoining lands.
- 712.02 Description of existing and proposed uses.

- 712.03 Exterior and interior boundaries and lot lines and locations, dimensions and elevations of existing and proposed uses and structures (including description of exteriors and architects details), roads, driveways, parking areas, landscaping and site improvements, utilities, and other improvements, in recordable form, certified by the applicant or by a registered surveyor.
- 712.04 Location of existing and proposed easements, deed restrictions and the like.
- 712.05 Measures to be taken during construction to minimize erosion, sedimentation, dust, etc.
- 712.06 Information regarding the impact of the proposed development on traffic, parking, school, police and fire, and other public services, information regarding the anticipated public revenue from and other public benefits of the proposed development, and the proposed construction sequence and time schedule for completion of the proposed development, and projected uses for other adjacent lands of the applicant.
- 712.07 Provision for useable parking spaces.
- 712.08 Ownership and location of abutting properties and the location of structures, roads, other Improvements and natural and improved surface water drainage systems on those properties if within 500 feet of the boundary of the development.

When the applicant has furnished the above information to the Zoning Administrator for the Planning Commission or the Zoning Board of Adjustment, as the case may be, by the applicant, in form and detail sufficient for that body to make the necessary findings pursuant to Article 7, Section 713, together with the fee set by the Board of Selectmen, the application shall be complete for public hearing, and action by the Commission or Board. The Zoning Board of Adjustment or Planning Commission may at its election, hold one or more preliminary hearings in order to facilitate the collection of the above information. However, a permit may only be issued after consideration of all of the Information described in this section, and upon the findings required by Article 7, Section 713.

713: Finding to be Made for Any Permit

- 713.01 A permit for a permitted use shall be issued only if the Zoning Administrator finds, and files in the public records of the Town his written findings, that the development will meet the Specific Standards of Article 4, Sections 403.01 through 403.08 of these Regulations.
- 713.02 Permits requiring Board review shall be issued only if the Planning Commission or Board of Adjustment, as the case may be, finds and files in the public records of the Town its written findings, that the development will meet the General and Specific Standards of ARTICLE 4 of these Regulations and of ARTICLE 5 of these Regulations with respect to Planned Unit Developments.
- 713.03 All approved subdivisions must be accompanied by a registered surveyor's Mylar of the original parcel and approved changes for recording by the Town Clerk.

714: Authorization of Conditions

The Zoning Board of Adjustment or Planning Commission, as the case may be, may impose

Reasonable conditions upon the applicant and his or her successors and assigns in order to assure the compliance with terms and the achievement of the purposes of these Regulations and the Town Plan. Such conditions may include, without limitation:

- 714.01 A maximum number of new lots or dwelling units to be created by the developer per year, in order to meet the provisions of Article 4, section 402 of this Regulation, and, if the development is of part of a parcel, provisions, affecting the development of the rest of the parcel (provided, however, that if no such condition is imposed, it is understood that the owner may develop and subdivide the balance of the parcel to the density and for the uses prescribed by this Regulation for the District in which the balance of the parcel is located).
- 714.02 Performance bonds to ensure performance of the conditions of a permit.
- 714.03 The payment for reasonable analyses and reports required for an adequate review of a development under these Regulations.
- 714.04 In areas identified by the Board or Commission to have a potential for erosion, runoff, pollution, flooding, increased traffic, adverse impact on scenic quality, degradation of unique natural areas, impact on other properties or on the use of public facilities, or reduction of agricultural potential, methods to limit, locate, landscape or screen development in order to meet the provisions of ARTICLE 4 of these Regulations.

715: Appeals of decisions of the Administrative Officer (§ 4465)

Appeals of decisions of the Administrative Officer shall be made pursuant to 24 V.S.A. Section 4465, which is attached hereto for reference.

716: Notice of appeal

A notice of appeal shall comply with the requirements of 24 V.S.A. Section 4466, which is attached hereto for reference.

717: Hearing on appeal

The appropriate municipal panel shall set a date and place for a public hearing of an appeal in accordance with the provisions of 24 V.S.A. Section 4468, which is attached hereto for reference.

718: Appeal; Variances

Any appeal from a decision regarding a variance shall be governed by the provisions of 24 V.S.A. 4469, which is attached hereto for reference.

719: Appeal to environmental court

Appeals made to the Vermont Environmental Court shall be governed by 24 V.S.A. Section 4471, which is attached hereto for reference.

720: Enforcement

The enforcement of the Jay Land Use and Development Regulations shall be carried out in accordance with 24 VSA, Sections 4451 and 4452 by the Zoning Administrator.

The Zoning Administrator may inspect any development, and shall, take such steps of enforcement as are authorized by 24 VSA, Sections 4451 and 4452 of the Act which are attached hereto for reference, if he or she finds default, violation, or non-compliance with the applicable law, the terms of a permit, the description or undertakings in the application, or the standards provided herein.

721: Fees

The Selectboard of the Town of Jay is hereby authorized to adopt fees and charges to be payable by applicants hereunder.

ARTICLE 8: DEFINITIONS

801: General Definitions

The definitions of the terms specified in 24 V.S.A. Section 4303 are included herein by this reference, except as set forth in Article 8, Section 802.

802: Specific Definitions

- 802.01 Accessory Uses and Structures: Any use or structure, not for commercial, industrial or dwelling purposes, proposed in connection with a residential or nonresidential use.
- 802.02 Acre: 43,560 square feet
- 802.03 Agriculture: The science, art, and business of cultivating soil, producing crops, And raising livestock; farming. In addition, the definition of farming in 10 V.S.A. § 6001(22) includes "the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm."
- 802.04 Air Contaminant: Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- 802.05 Alteration: Structural change that increases the exterior height, width, or length of the building, including relocation of, or addition to, an existing building.
- 802.06 Area of Shallow Flooding: A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 802.07 Area of Special Flood Hazard: If the land in the flood plain within a community is subject to a one percent or greater chance of flooding in any given year, the area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-A30, AE, of A-99

- 802.08 Bakery: An establishment that sells baked goods that are prepared on the premises, and may include a seating area for dining, either within or immediately outside of the establishment.
- 802.09 Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.
- 802.10 Basement: Any area of the building having its floor subgraded (below ground level) on all sides.
- 802.11 Building: Any structure with a roof supported by columns or walls including a gas or liquid storage tank and intended for any individual, animal, process, equipment, storage of goods or materials of any kind.
- 802.12 Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the primary main entrance of the building to the highest point of the roof. The distance measured is exclusive of chimneys, lightning rods and non-commercial antennae.
- 802.13 Campground: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as a temporary living quarters for recreation, educational, or vacation purposes.
- 802.14 Cemetery: Property used for interment of the dead.
- 802.15 Church: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting or organized religious services and accessory uses associated therewith.
- 802.16 Clinic Services: a establishment where patients are admitted for examination and treatment by one or more physicians, dentist, psychologists or social workers and where patients are not usually lodged overnight.
- 802.17 Commercial / Retail Facility: Establishments engaged in selling goods, merchandise and services to the general public.
- 802.18 Development: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.
- 802.19 Dwelling Unit or Dwelling, Single Family: One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease, and physically separated from any other rooms or dwelling units which may or may not be the same structure. A dwelling includes a mobile home, which is permanently connected to a water supply and an adequate sewage treatment and disposal facility. A dwelling does not include boarding houses, bed & breakfast establishments, hotels, motels, clubs, dormitories or any structures, whether or not also used for residence purposes, which offer housing and/or feeding to transients.
- 802.20 Dwelling, Accessory: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

- 802.21 Dwelling, Two-Family: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.
- 802.22 Dwelling, Multi-Family: A residential building designed for or occupied by three or more families, living independently of each other in individual dwelling units, where the number of families in residence does not exceed the number of dwelling units provided.
- 802.23 Earth Resource Removal: Excavation and removal of rock, stone, ore, sand, gravel, soil, minerals, and similar materials from the surface or subsurface.
- 802.24 Emission: A release of air contaminants into the ambient air space.
- 802.25 Essential Services: The erection, construction, alteration or maintenance of underground, surface or overhead electrical, gas, steam, water, sewerage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.
- 802.26 Frontage: Any lot line separating a parcel from either a public right-of-way or public waters.
- 802.27 Flood Hazard Boundary Map (FHBM): An official map of a community, issued by FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.
- 802.28 Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the, special hazard areas and the risk premium applicable to the community.
- 802.29 Flood Insurance Study: An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations.
- 802.30 Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 802.31 Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 802.32 Fuel Distribution: The bulk storage of petroleum products in structures for subsequent use or resale and not directly available to the consuming public.
- 802.33 Funeral Home: A building that is used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.
- 802.34 Gas Station: Any building, land area or other premises, or portion thereof used for the sale of vehicular fuels; including as an accessory use the sale and/or installation of lubricant, tires, batteries, and similar vehicle accessories; or as an accessory use, the sale of snack food, tobacco, drinks, newspapers, and similar convenience goods.

- 802.35 He, His, Him, She and Her: These pronouns shall refer to any person regardless of gender and also to a Corporation.
- 802.36 Home Occupation: Accessory use of a service character conducted within a minor portion of a dwelling by the residents thereof for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.
- 802.37 Salvage: Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, disposal, or other use or disposition. Salvage Includes, but is not limited to, vehicles, tires, vehicle parts, equipment, metal, glass, building materials, household appliances, wood and lumber. This definition shall not include normal household garbage.
- 802.38 Salvageyard: An area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of scrap metal or other scrap or discarded goods, materials, machinery or four or more unregistered, inoperable motor vehicles or other type of junk. This definition shall not include a landfill designed and intended for the disposal of normal household garbage.
- 802.39 Light Industry: Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods or products, provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.
- 802.40 Lodging facility: A facility in which rental sleeping accommodations are provided and in which meals also may be supplied as part of the fee. Such facilities may include, but are not limited to, bed and breakfasts, hotels, dormitories and / or motels.
- 802.41 Lot: Any parcel of land the boundaries of which are described in a recorded deed or plat.
- 802.42 Lot Line, Rear: That lot line opposite and most distant from the street line.
- 802.43 Lot Line, Side: A lot line which is neither a street line nor a rear lot line.
- 802.44 Lot Width: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, however, that width between the lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.
- 802.45 Lowest Floor: The floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevator design requirements of 44 CFR, 60.3.
- 802.46 Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term

"manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

- 802.47 Major Industry: Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods or products, where these activities are conducted in such a manner that they require the use of public water and sewer and may possibly generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.
- 802.48 Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities' Flood Insurance Rate Map are referenced.
- 802.49 Mobile Home Park: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for travel trailers.
- 802.50 Non-conforming Lot or Parcel: A lot or parcel that does not conform to the present Regulations covering dimensional requirements, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Regulations, including a lot or parcel improperly authorized as a result of error by the administrative officer
- 802.51 Non-conforming Structure: A structure or part of a structure that does not conform to the present Regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Regulations, including a structure improperly authorized as a result of error by the administrative officer
- 802.52 Non-conforming Use: Use of land that does not conform to the present Regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present Regulations, including a use improperly authorized as a result of error by the administrative officer
- 802.53 Open Burning: The burning of any type of combustible material where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney or other enclosure. Burning shall include ignition, permitting or causing ignition and suffering, allowing or maintaining burning.
- 802.54 Outdoor Furnace: Any water heater, wood stove or similar individual hand-fed furnace designed to burn wood and used for the purpose of heating water or air where the furnace is located outside the structure serviced by the furnace and into which the hot water or heat is piped.
- 802.55 Person: An individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word "person" also means any subdivision, agency or instrumentality of the State of Vermont, or any other state of the United States or of any interstate body.
- 802.56 Planned Unit Development: An area of minimum contiguous size, as specific herein, to be planned, developed, operated and maintained as a single entity and containing one or

more residential clusters with one or more public, quasi-public, commercial or industrial areas in such ranges, ratios and proximities as specified herein.

- 802.57 Professional Office: An establishment engaged in rendering administrative support; management or consultation; or service to other business establishments or individuals on a fee or contractual basis, such as advertising and mailing; building maintenance; employment services; and research, development, and testing.
- 802.58 Public Facility: Any property, with or without structures, owned by the Town of Jay for the conduct of town business, maintenance of town properties and / or roads, provision of municipal services, or for the enjoyment and recreation of the town's residents.
- 802.59 Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. Such facilities may include public and semi-public facilities, as well as both indoor and outdoor facilities.
- 802.60 Restaurant: An establishment where food and drink is prepared served and consumed primarily within the principal building. This may also include take out restaurants.
- 802.61 Right-of-way: (1) A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses. (2) generally, the right of one to pass over the property of another.
- 802.62 Self-storage facility: A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
- 802.63 Setback, Front Yard: Distance between the street line and front yard line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.
- 802.64 Setback, Rear Yard: Distance between the rear lot and rear line of the building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.
- 802.65 Setback, Side Yard: Distance between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.
- 802.66 Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located. A sign is a single display surface or device containing elements organized, related, and composed to form a unit. Where matter or information is displayed in a random manner or where the Zoning Board of Adjustment finds there is a reasonable doubt concerning the relationship of elements, each element shall be considered a single sign.
- 802.67 Stack: Any chimney, flue, conduit or duct arranged to conduct emissions to the ambient air.
- 802.68 Structure: An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.
- 802.69 Subdivision: A transfer, including by deed, lease or otherwise, of an interest

in less than all of a lot, except for a bona fide mortgage, easement, or boundary adjustment. A resubdivision is also a subdivision. A transfer of the right to use part of a lot for agriculture or forestry uses is not a subdivision. However, any change of these uses to any other use is a subdivision. The creation of a condominium or townhouse regime, or similar transfers of less than all interests in an existing lot or structure, or the continuous rental of a building or portion thereof for short-term occupancy, is a subdivision for the purposes of these Regulations.

- 802.70 Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the listed value of the structure either;
- A. Before the improvement or repair is started, or
 - B. If the structure has been damaged, and is being restored, before the damage occurred. The term does not, however include either;
 - 1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.
 - 2. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Sites.
- 802.71 Telecommunications Facility, Wireless: (1) A parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment; (2) an FCC-licensed facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from wireless communication devices and equipment.
- 802.72 Travel Trailer: A recreational vehicle, travel trailer, camping trailer, travel coach, motor home, or similar vehicle designed for residential use which is not permanently connected to a water supply and an adequate sewage treatment and disposal facility.
- 802.73 Wholesale Facility: Establishment or place of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

ARTICLE 9: AMENDMENTS, INTERPRETATION. EFFECTIVE DATE. And SEVERABILITY

901: Amendments

These Regulations may be amended according to the requirements and procedures established in 24VSA, Sections 4441 & 4442

902: Interpretation

In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not the intention of these Regulations to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, provided, however,

that where these Regulations impose a greater restriction 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 Regulations shall control.

903: Effective Date

This Regulation shall take effect in accordance with the voting and other procedures contained in 24 VSA, Section 4442.

904: Severability

These Regulations and their various parts, sentences, paragraphs, elements, clauses and sections are hereby declared to be severable. If any part, sentence, paragraph, element, clause or section is judged invalid or unenforceable, the remainder of these Regulations shall not be affected thereby.

905: Repeal

The Zoning Regulations adopted by the Town of Jay on March 4, 2003 is hereby repealed.

NOTE: Vermont State Statutes referenced in these Land Use Regulations for the Town of Jay are attached hereto for reference. Check at the Jay Town Clerk's office for amendments to Vermont State Statutes.

APPENDIX: I

V.S.A. REFERENCE:

(§ 4413)

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

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(b) This bylaw shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

(c) Except as otherwise provided by § 4413 and by 10 V.S.A. § 1976, if land development is subject to regulation by this bylaw and regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

(d) This bylaw shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

(1) For purposes of this section, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

(2) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food and markets. No municipal permit for a farm structure shall be required.

(3) Notwithstanding any provision of law to the contrary, this bylaw shall not prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.

(§ 4465)

(a) An interested person may appeal any decision or act taken by the administrative officer by filing a notice of appeal with the secretary of the board of adjustment of that municipality or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

(b) For the purposes of this chapter, an interested person means any one of the following:

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

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

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

(4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This

petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

(c) In the exercise of its functions under this section, the board of adjustment shall have the following powers, in addition to those specifically provided for elsewhere in this chapter:

(1) To hear and decide appeals taken under this section, including, without limitation, where it is alleged that an error has been committed in any order, requirement, decision, or determination made by an administrative officer under this chapter in connection with the administration or enforcement of a bylaw.

(2) To hear and grant or deny a request for a variance under section 4469 of this title.

(§ 4466)

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

(§ 4468)

The appropriate municipal panel shall set a date and place for a public hearing of an appeal under this chapter that shall be within 60 days of the filing of the notice of appeal under section 4465 of this title. The appropriate municipal panel shall give public notice of the hearing and shall mail to the appellant a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by section 4465 of this title to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. Any hearing held under this section may be adjourned by the appropriate municipal panel from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings under this section shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810.

(§ 4469)

(a) On an appeal under section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the environmental court created under 4 V.S.A. chapter 27 shall grant variances and render a decision in favor of the appellant, if **all** the following facts are found, and the finding is specified in its decision:

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

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

(3) Unnecessary hardship has not been created by the appellant.

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

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

(§ 4471)

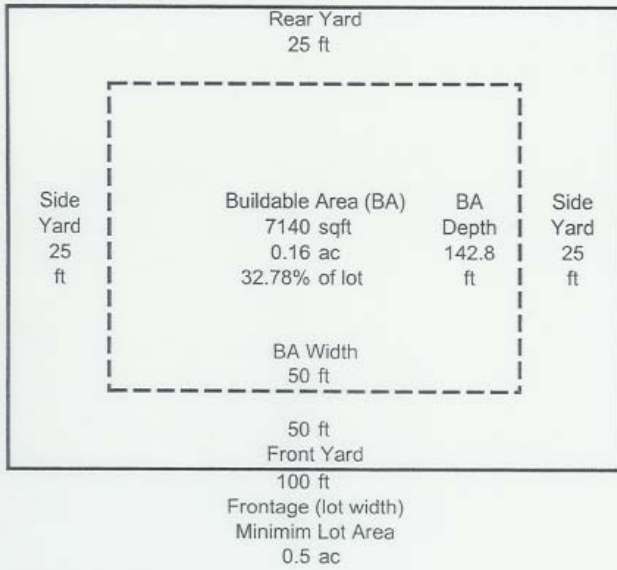
(a) Participation required. An interested person who has participated in a municipal regulatory proceeding authorized under this title may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. An appeal from a decision of the appropriate municipal panel, or from a decision of the municipal legislative body under subsection 4415(d) of this title, shall be taken in such manner as the supreme court may by rule provide for appeals from state agencies governed by sections 801 through 816 of Title 3, unless the decision is an appropriate municipal panel decision which the municipality has elected to be subject to review on the record.

(b) Appeal on the records. If the municipal legislative body has determined (or been instructed by the voters) to provide that appeals of certain appropriate municipal panel determinations shall be on the record, has defined what magnitude or nature of development proposal shall be subject to the production of an adequate record by the panel, and has provided that the municipal administrative procedure act shall apply in these instances, then an appeal from such a decision of an appropriate municipal panel shall be taken on the record in accordance with the Vermont Rules of Civil Procedure.

(c) Notice. Notice of the appeal shall be filed by certified mailing, with fees, to the environmental court and by mailing a copy to the municipal clerk or the administrative officer, if so designated, who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

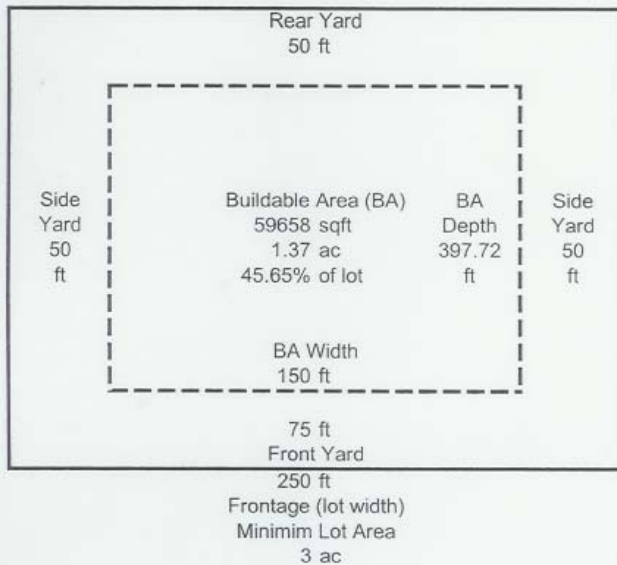
302 Village District



LOT AREA & SETBACKS	
Minimum lot size	0.5 ac
Frontage	100 ft
Front yard setback	50 ft
Side yard setback	25 ft
Rear yard setback	25 ft

COMMENTS:
The above minimum area and dimensional requirements result in a narrow buildable area that is 3 times longer than wide. A mobile, double wide, or modular home longer than 50 ft could not be placed on this lot with its length parallel to the front lot line. Narrower side yards are recommended, perhaps 15 ft.

303 Rural District I

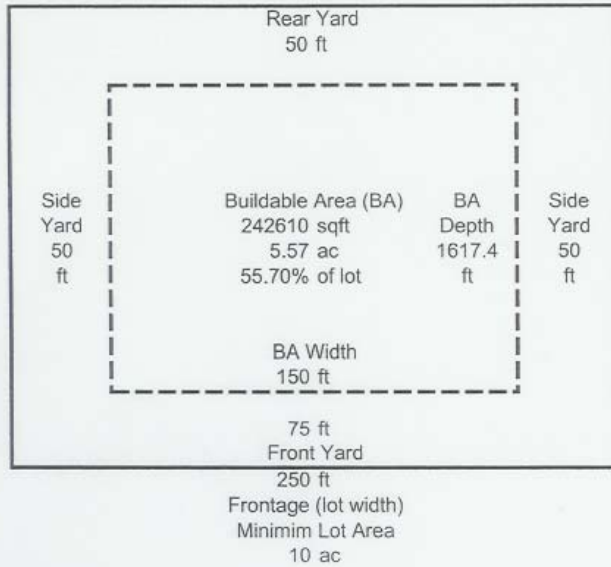


LOT AREA & SETBACKS	
Minimum lot size	3 ac
Frontage	250 ft
Front yard setback	75 ft
Side yard setback	50 ft
Rear yard setback	50 ft

COMMENTS:
The minimum lot area and dimensional requirements for this district are fine.

Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

304 Rural District II

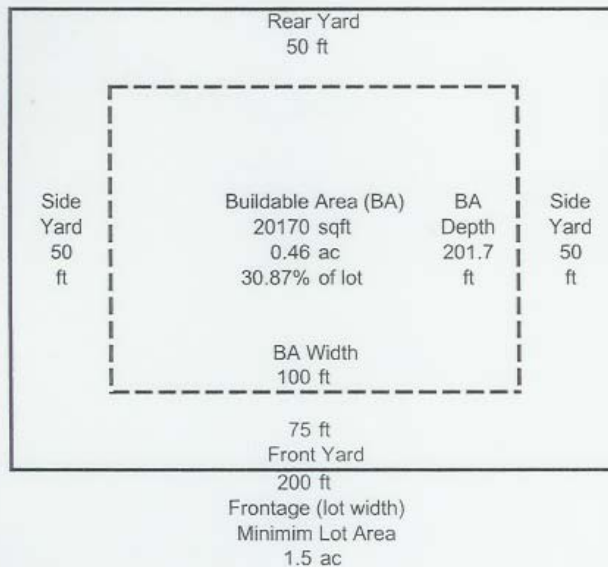


LOT AREA & SETBACKS	
Minimum lot size	10 ac
Frontage	250 ft
Front yard setback	75 ft
Side yard setback	50 ft
Rear yard setback	50 ft

COMMENTS:
The minimum lot area and dimensional requirements for this district create long narrow lots called spaghetti lots. A greater frontage requirement is recommended. A lot with the minimum frontage of 250 ft is almost 7 times longer than it is wide. In addition, this district is not appropriate for the types of land uses that are permitted.

Lot depth
1742.4 ft

305 Recreation District



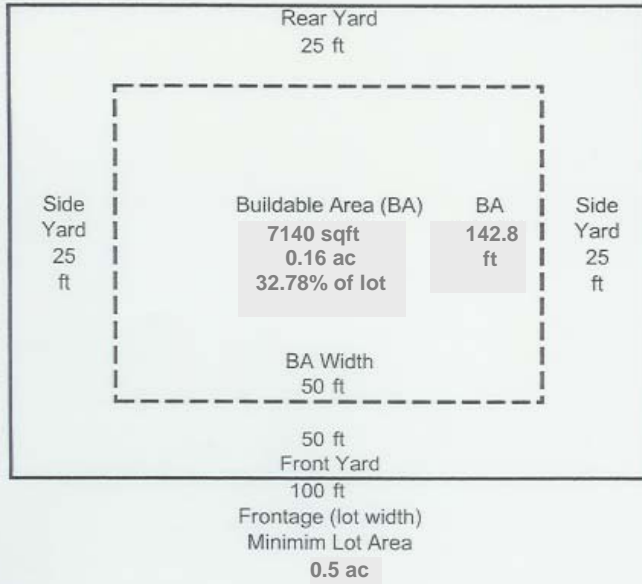
LOT AREA & SETBACKS	
Minimum lot size	1.5 ac
Frontage	200 ft
Front yard setback	75 ft
Side yard setback	50 ft
Rear yard setback	50 ft

COMMENTS:
The minimum lot area and dimensional requirements for this district are fine.

Lot depth
326.7 ft

Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

306 High Density District



LOT AREA & SETBACKS	
Minimum lot size	0.5 ac
Frontage	100 ft
Front yard setback	50 ft
Side yard setback	25 ft
Rear yard setback	25 ft

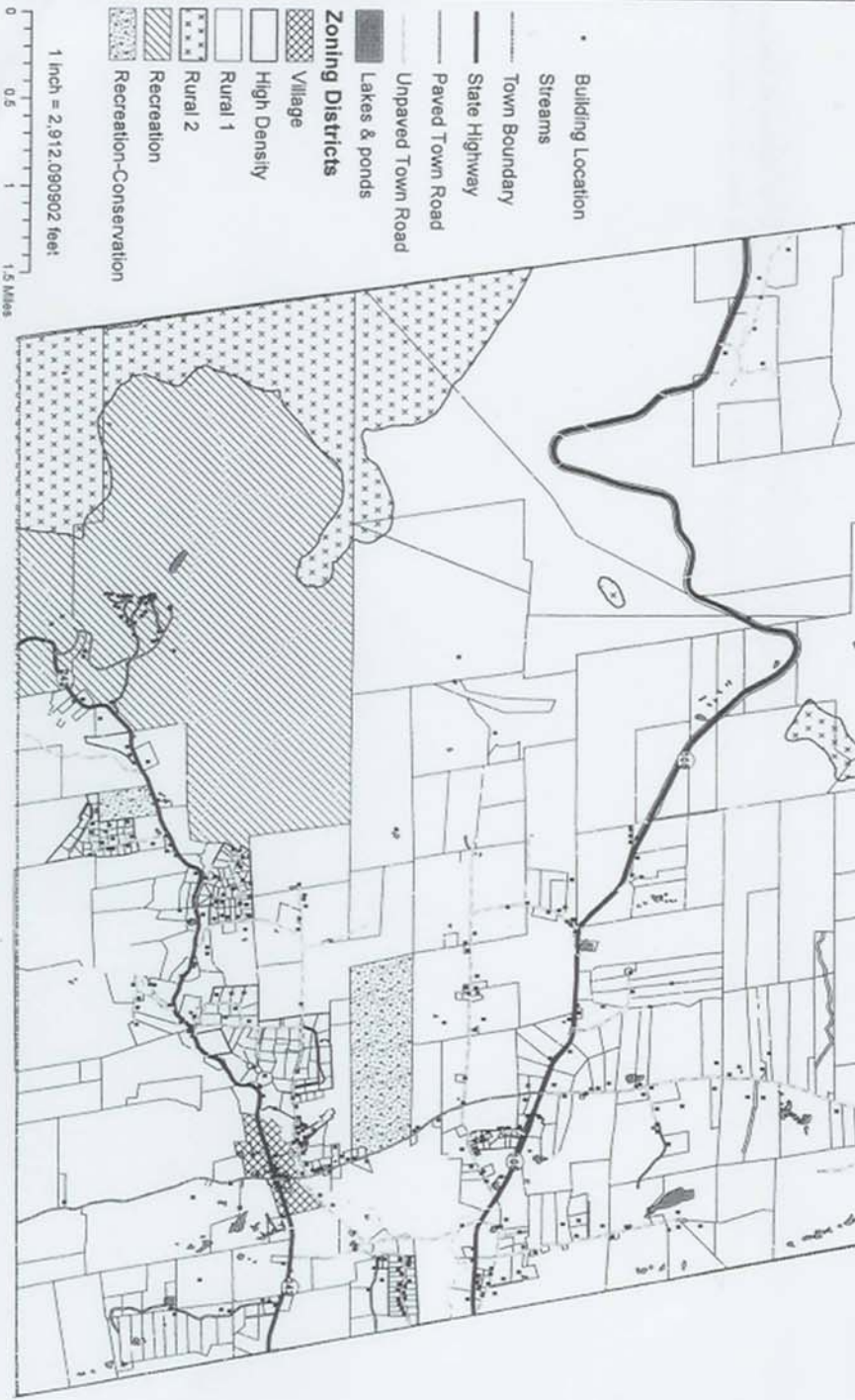
Lot
217.8
ft

COMMENTS:
The minimum lot area and dimensional requirements for this district creates a long, narrow buildable area that is more than 7 times longer than it is wide. Many manufactured homes are longer than 50 ft. These requirements would prevent such homes from being located to the street. Narrower sideyard setbacks are recommended, perhaps 15 ft, for this district.



Town of Jay Zoning District Map

Warning: This data is for planning purposes only and does not constitute a guarantee, warranty, or representation of accuracy. It was developed from various scale sources. There may be some discrepancies between data layers.



1 inch = 2,912.090902 feet
0 0.5 1 1.5 Miles

01/25/2010