

## **Zoning Regulations**

The Unified Towns & Gores of Essex County, Vermont  
(Averill, Avery's Gore, Ferdinand, Lewis, Warrens Gore, Warner's Grant)  
*UTG PLANNING COMMISSION*

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## **ARTICLE 1: ENACTMENT AND INTENT**

### **Section 101: Enactment.**

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the “Act”, 24 V.S.A Chapter 117, Section 4411, there are hereby established zoning regulations for the Unified Towns and Gores of Essex County which are set forth in the text and map that constitutes these regulations. These regulations shall be cited as the “UTG Zoning Regulations” for the Unified Towns and Gores of Essex County.

### **Section 102: Intent.**

It is the intent of these zoning bylaws to provide for orderly growth and to further the purposes established in Section 4302 of the Act.

## **ARTICLE 2: ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS**

### **Section 201: Zoning Map, Conservation Overlay Map and Districts.**

The zoning map officially entitled “UTG Zoning Map” of the Unified Towns and Gores of Essex County is hereby adopted in accordance with Section 4414 of the Act as part of this bylaw. The Zoning Map shows a division of the Unified Towns and Gores of Essex County into the following districts:

- “FASF” Forest Land, Agricultural and Single Family Home
- “CIR” Commercial/Industrial/Residential
- “SL” Shore Land

#### Conservation Overlay District

The Conservation Overlay District officially entitled “UTG Conservation Areas Overlay Map” of the Unified Towns and Gores of Essex County is also adopted as part of this bylaw. The Conservation Overlay Map is intended to be superimposed on top of the UTG Zoning Map to illustrate areas with significant constraints for building structures. ALL buildings, structures, or uses located in a natural resource overlay area identified below will be reviewed as a conditional use. The overlay includes the following natural resource areas:

- A. Steep slopes over 20%
- B. Hydric Soils, Wetland Areas
- C. Critical Wildlife Habitat/Natural Areas
- D. Areas over 2,500 feet in elevation

The official UTG Zoning Maps are stored at the Office of the Unified Towns and Gores. The official zoning maps shall be the final authority as to the current zoning status of all properties within the Unified Towns and Gores of Essex County.

### **Section 202: District Objectives of Land Use Control.**

The following tables established the objectives and provisions that apply in each district. Any land development designated as a “permitted use” in the table may be commenced pursuant to Section 203 of this regulation. Any land development designated as a “conditional use” in the table may be commenced pursuant to Section 204 of this regulation.

**Table 202.01: “CIR” Commercial, Industrial, Residential District.**

Objective:

This district is where most new development should occur, including commercial and light industrial facilities, residential development and the continuance of agricultural and forestry activities. Approval of any residential use other than one- and two-family dwellings, accessory dwellings, and travel trailers requires DRB site plan review and approval.

Description:

Land within 500 feet of the centerline of publicly owned and maintained roads.

Permitted Uses:

1. Accessory use or structure\*\*\*\*
2. Accessory dwelling \*\*\*
3. Church \*\*
4. Dwelling, single-family
5. Dwelling, two-family
6. Garage, Private Residential
7. Travel trailer

Permitted Upon Issuance of Conditional Use Permit:

1. Auto service station
2. Business/Professional office
3. Campground
4. Cemetery
5. Clinic (Medical, Dental, or Health, etc.)
6. Club, Private
7. Commercial Service
8. Communications (telecommunications) facility\*\*
9. Dwelling, multi-family
10. Emergency service
11. Group home and Child care \*
12. Industrial facility, light
13. Lodging house (Bed & Breakfast)
14. Log/Lumber transfer yard
15. Mineral extraction
16. Mobile home park
17. Motel
18. Planned Unit Development
19. Public Facility
20. Recreation (Commercial or Non-profit)
21. Restaurant
22. Retail Facility
23. School
24. Transportation facility
25. Helipad

\*\*\*\* Light framework structures without a foundation are allowed without a permit as long as they are no larger than 600 square feet, properly maintained and meet the required setbacks.

\*\*\* See Article 3, Section 310: General Provisions: Accessory Dwelling Units  
 \*\* See Article 3, Section 311: General Provisions: Limitations on Zoning Bylaw.  
 \*See Article 3, Section 312: General Provisions: Group Homes and Child Care

Area and Dimensions:

Minimum lot area per family in square feet	43,560'
Minimum lot size	
Area in acres	1.0
Width in feet	200'
Minimum setback dimensions and building coverage	
Front yard in feet	50'
Each side yard in feet	25'
Rear yard in feet	25'
Set back from the seasonal high water mark in feet	100'

**Table 202.02: “SL” Shore Land District.**

Objective:

The Shore Land District provides for limited residential development with the continuance of forestry and agricultural activities while only allowing neighborhood type commercial facilities at a low density. All applicable State of Vermont permits must be obtained before applying for a UTG permit.

Description:

All land within 250 feet of lakes and ponds over 10 acres in size.

Permitted Uses:

1. Accessory use or structure\*\*\*
2. Accessory dwelling \*\*
3. Dwelling, single family
4. Garage, Private Residential
5. Travel Trailer

Permitted Upon Issuance of Conditional Use Permit:

1. Campground
2. Club, private
3. Communications (telecommunications) facility\*
4. Dwelling, two family
5. Emergency service
6. Lodging house (Bed & Breakfast)
7. Recreation (Commercial or Non-profit)

\*\*\* Light framework structures without a foundation are allowed without a permit as long as they are no larger than 600 square feet, properly maintained and meet the required setbacks.

\*\* See Article 3, Section 310: General Provisions: Accessory Dwelling Units

\* See Article 3, Section 311: General Provisions: Limitations on Zoning Bylaw

Area and Dimensions:

Minimum lot area per family in square feet	65,340
Minimum lot size	
Area in acres	1.5
Width in feet	200'
Minimum setback dimensions and building coverage	
Front yard in feet	100'
Each side yard in feet	25'
Rear yard in feet	25'
Maximum height of building/dwelling structures*	30'
Set back from the seasonal high water mark in feet**	100'
Minimum frontage on shore land at high water mark in feet	200'

\* the method for measuring building height is to first determine the average grade, and then measure the vertical distance from the average grade to the midpoint between the highest roof ridge and its associated eaves for gable, hip or gambrel roofs. This is a building industry standard.

\*\*A shed or gazebo not to exceed 100 square feet may be built at least 25 feet from the shoreline and at least 25 feet from the primary dwelling, provided it has received a Shoreland Protection Registration from the State of Vermont, and has green or brown roofing material and neutral colors on the building. The maximum height of such building shall not exceed 16 feet.

Note: The frontage on a shore land lot is measured at high water mark. The front yard in this district is toward the water, not facing the road as in other districts. The zoning administrator can use his/her judgement to allow an owner to move an existing structure further from the water if it is decreasing the non-conformity.

A minimum 100 foot buffer strip of native vegetation (trees, shrubs, and native ground cover) at a sufficient density to retain the soil and limit runoff shall be maintained inland and parallel to the shoreline. Mowed grass lawns shall not be considered a native ground cover. *Section 307 provides further guidance on Shore Land Vegetation and Buffer Strips.*

**Table 202.03: “FASF” Forest, Agriculture, and Single Family Home District.**

Objective:

Provide for the continuance of forestry and agricultural activities while allowing limited residential development. Commercial development that requires a remote location may be permitted conditionally.

Description:

All land not contained in other districts, including the Averill “Cluster Lots” without lake frontage.

Permitted Uses:

1. Accessory use or structure\*\*\*\*
2. Accessory dwelling\*
3. Dwelling, single family

- 4. Garage, Private Residential
- 5. Travel trailer

Permitted upon issuance of conditional use permit:

- 1. Campground
- 2. Commercial service
- 3. Communications (telecommunications) facility\*\*
- 4. Group Home and Child Care\*\*\*
- 5. Lodging house
- 6. Mineral Extraction
- 7. Planned Unit Development
- 8. Public assembly
- 9. Public facility\*\*
- 10. Recreation (Commercial or Non-profit)
- 11. School\*\*

\* See Article 3, Section 310: General Provisions: Accessory Dwelling Units

\*\* See Article 3, Section 311: General Provisions: Limitations on Zoning Bylaw.

\*\*\*See Article 3, Section 312: General Provisions: Group Home and Child Care.

\*\*\*\* Light framework structures without a foundation are allowed without a permit as long as they are no larger than 600 square feet, properly maintained and meet the required setbacks.

Area and Dimensions:

Minimum lot area in square feet:	217,800'
Minimum lot size	
Area in acres	5.0
Width in feet	500'

Minimum setback dimensions and building coverage

Front yard in feet	50'
Each side yard in feet	25'
Rear yard in feet	25'
Set back from the seasonal high water mark in feet	100'

**Section 202.04: Conservation Overlay District.**

Objective:

The Conservation Overlay District is designed to protect fragile natural areas and their inherent values from development or from additional development.

Application:

Conservation Overlay District review shall apply to all land development and be treated as an “overlay zone”. An overlay zone is superimposed over an underlying existing zone. The provisions of the overlay zone take precedent over the requirements of the underlying zone.

Proposed uses or structures in the Conservation Overlay District shall be subject to the Conditional Use review (Section 204) and Conservation review standards to ensure adequate protection of the resource. In considering an application, the Development Review Board shall evaluate the immediate and long range impacts of the proposed use on the resource.



Conservation review standards:

All proposals shall demonstrate how conservation areas will be protected under the proposed development plan. All land development shall meet the following standards:

- A. *Steep Slopes:* Lots with steep slope characteristics (over 20%) shall be reviewed for suitable sewage disposal, drainage, erosion control, and access for emergency vehicles.
  
- B. *Hydric soil / Wetlands:* Lands with hydric soils identified as wetlands on the overlay zone, shall not be drained, filled or altered to accommodate land development. Proposals for the development of a lot involving or adjacent to an identified wetland shall provide for adequate setback of roads, buildings, structures, and sewage systems from the wetland. Adequate setbacks shall be no less than 100 feet, and may be increased by the Development Review Board accordingly to protect the following wetland values:
  - 1. Water quality control
  - 2. Groundwater supply
  - 3. Flood and erosion control
  - 4. Flora and fauna
  - 5. Education and recreation
  
- C. *Critical Wildlife Habitat and Natural areas:* The proposal shall provide for adequate setbacks of roads, buildings, structures and sewage disposal systems from these resources to ensure their long-term viability. This set back will be a minimum of 250 feet, but may be increased by the Development Review Board accordingly to protect a particular area or species.
  
- D. *Areas above 2,500 feet in Elevation:* The proposal shall provide for protection of fragile alpine ecosystems and sewage disposal systems from these resources to ensure their long-term viability.

Conditions:

The Development Review Board may place conditions on the proposed use to ensure the above standards will be met. The conditions may include, but shall not be limited to, additional setbacks and protective buffer strips.

**Section 203: Permitted Uses and Uses Not Permitted.**

Permitted uses are those uses that are allowed by zoning district, provided the standards established by this bylaw are met. Unless a waiver, variance or other Development Review Board approval is required, the necessary permit may be issued by the Administrative Officer.

Uses not listed in this zoning bylaw are not permitted in the Unified Towns and Gores of Essex County unless the uses in question are legally exempt from zoning regulation.

**Section 204: Conditional Use and Review.** *See Section 504(C)(3)*

Permitted upon issuance of a conditional use permit are those uses that may be allowed by the Development Review Board as provided for in Section 4414(3) of the Act after public notice and public hearing in accordance with Section 4464 of the Act.

**Section 205: Application of District Regulations.**

- A. Any “non-conforming use” or “non-conforming structure”, as such terms are defined in Section 4412(7) of the Act and Article 9 of these regulations, existing on the effective date of this regulation, may be continued indefinitely to the extent set forth in these regulations.
- B. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- C. No building shall hereafter be erected or altered to have narrower or smaller rear yards, front yards, or side yards than is specified herein for the district in which such building is located.
- D. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this regulation shall be included as a yard or other open space similarly required for another building.
- E. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side, or rear yard.

**ARTICLE 3: GENERAL PROVISIONS**

In accordance with Section 4412 of the Act, the following shall apply:

**Section 301: Lots.**

- A. Lots which abut on more than one street shall provide the required frontage along every street.
- B. If two or more adjacent lots are in single or affiliated ownership on the effective date of this regulation, and if all or parts of the lots do not meet the requirements for a lot width and area as established by this regulation, the lots involved shall be considered to be an individual lot for the purpose of this regulation and no portion of said lot shall be used or sold which does not meet lot width and area requirements established by this regulation, nor shall any division of the lot be made which leaves remaining any lot width or area below the requirements stated in this regulation. (See Section 302, Required Frontage).
- C. *A nonconforming lot shall not be deemed merged and may be conveyed separately if all of the following apply:*
  - a) lots are conveyed in their preexisting, nonconforming condition*
  - b) on the effective date of the bylaw, each lot was developed w/water supply and wastewater disposal system*
  - c) at the time of transfer, each of the above systems are functioning*

*d) the deeds of conveyance create appropriate easements on both lots for replacement of one or both systems in the event of failure*

**Section 302: Existing small lots.**

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

**Section 303: Required frontage / Access to public roads.**

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right of way of record at least fifty feet in width. Applications requiring access and frontage shall follow the same requirements and process as applications subject to Development Review under Article 7 of these regulations and shall be reviewed and approved by the Development Review Board in accordance with Section 4464 of the Act.

The frontage on a shore land lot is measured at high water mark. On shore land lots, the front yard is considered the side toward the water.

**Section 304: Protection of home occupations.**

No regulation may infringe upon the right of any resident to use *a minor* portion of a dwelling for an occupation which is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

**Section 305: Principal Buildings Including Dwellings on Lots.**

There shall be only one principal building on a lot.

**Section 306: Temporary Uses and Structures.**

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for non-conforming 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.

**Section 307: Shoreland Vegetation.**

A. Dwelling lots.

A minimum 100 foot buffer strip of native shoreland vegetation (trees, shrubs, and native ground cover) and at a sufficient density to retain soil and limit runoff shall be maintained inland and parallel to the shoreline of lakes and ponds. The intent of the buffer strip is to protect water quality, screen structures from view while on the water, and yet allow for airflow circulation and a limited view of the water, so the maximum width buffer is required. Within the buffer, the following provisions apply:

- 1) Vegetation removal is prohibited, except for control of exotic or invasive species,

removal of diseased vegetation, removal of trees severely damaged by high winds, or because of an imminent safety hazard.

2) Any vegetation removal requires replacement with native vegetation (trees, shrubs, or native ground cover).

3) Mowed grass lawns shall not be considered a native ground cover.

**Section 308: Timber Harvesting.**

Logging operations shall follow the *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont* (August 15, 1987) there shall be a protective strip of vegetation left along all shore land areas of at least 50 feet in depth.

Except for necessary construction of stream crossings, a protective strip shall be left along streams and other bodies of water (shore land) in which only light thinning or selective harvesting can occur so that breaks made in the canopy are minimal and a continuous cover is maintained. Log transport machinery must remain outside a 25 foot margin along the stream or water body. Including this 25 foot margin, the width of the protective strip shall be according to Table 1.

**Table 3.1. Protective Strip Width Guide.**

Slope of land between roads or landings & stream or shore lands (percent)	Width of strip between roads or landings & stream or shore lands (feet along surface of ground)
0-10	50
11-20	70
21-30	90
31-40	110

\* Add 20 feet for each additional 10% side slope. \*\* See Slope definition for details.

**Section 309: Septic Systems.**

All sewage and wastewater disposal systems shall be designed and installed to conform to current State of Vermont Standards and an approved state permit shall be required as part of any building application. **For any project requiring a state or federal permit, construction may not begin until the state permit has been approved.** Compliance with this zoning bylaw in no way implies compliance with any state regulations. When an existing dwelling is converted from a second home or camp to residential use over 183 days per year, a State of Vermont wastewater permit is required and needs to be recorded at the UTG office. In addition, an Act 250 Permit may be required, which should also be recorded at the UTG office.

**Section 310: Accessory Dwelling Units.**

Accessory dwelling units shall be a permitted use wherever conventional housing is allowed. An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided

there is compliance with **all** the following:

- a. The property has sufficient wastewater capacity. Evidence indicating sufficient capacity shall be presented prior to construction.
- b. The unit does not exceed 30 percent of the total habitable floor area of the single family dwelling or 600 sq. ft., whichever is greater.
- c. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

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

- d. It is a new accessory structure, constructed after the enactment of these bylaws, or
- e. An increase in the height or floor area of the existing dwelling

### **Section 311: Limitations of Zoning Bylaws.**

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:

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

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

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

(c) A bylaw under this chapter shall not regulate 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.

**Section 312: Group Homes and Child Care.**

The following uses shall be considered permitted uses: State licensed or registered residential care or group home for not more than eight persons who have a handicap or disability, except that no such home shall be considered a permitted use if it locates within 1,000 feet of another existing or permitted home. 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 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.

**Section 313: Equal Treatment of Housing.**

No provision of this zoning bylaw shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. No provision of this bylaw may have the effect of excluding from the municipality housing to meet the needs of the population as determined in accordance with 24 V.S.A. § 4382(c).

**Section 314: Communications antennae and facilities.**

Communications antennae and facilities shall be subject to Conditional Use Review [Section 504(C)(3)].

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

(C) A municipality may regulate communications towers, antennae and related facilities in its bylaws provided that such regulations do not have the purpose or effect of being inconsistent with subdivisions (A) through (C) of this subdivision.

(D) De minimis telecommunications impacts. The Administrative Officer, or other entity designated by the municipality, 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 bylaws, shall approve the application.

## **ARTICLE 4: NON-CONFORMITIES**

### **Section 401: Construction Approved Prior to Adoption of Regulations.**

Nothing contained in these regulations shall require any change in plans or construction of a non-conforming structure for which a zoning permit has been issued. Such nonconformities shall be completed within the permit's effective period of two years.

Applications to renew expired permits will not be approved unless the structure or use conforms to the requirements of this bylaw.

### **Section 402: Non-conforming structures and uses.**

The following provisions shall apply to all structures and uses of land existing on the effective date of these regulations which do not conform to the requirements set forth in these regulations and to all structures and uses of land that in the future do not conform by reason of any subsequent amendment to these regulations. Any non-conforming use of structures or land, except those specified below, may be continued indefinitely, but:

A. Shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever.

B. Non-conforming accessory structures may be moved if the degree of nonconformance is lessened. Permits may be issued by the Zoning Administrator.

C. Shall not be changed to another non-conforming use without approval by the Development Review Board, and then only to a use which, in the opinion of Board is of the same or a more restricted nature.

D. Shall not be reestablished if such use has been discontinued for a period of one year, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

E. Shall not be restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage; if the restoration of such building is not completed within one year, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged part of the building.

F. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of nonconformance.

### **Section 403: Expansion of Non-Conforming Structures**

The Administrative officer may allow an expansion of up to 600 square feet providing it meets all other requirements of this bylaw and applicable state regulations, and does not increase the degree of non-conformity.

## **ARTICLE 5: ADMINISTRATION, APPLICATIONS, and APPEALS**

### **Section 501 Administrative Officer.**

The Legislative Body shall appoint an Administrative Officer from nominations submitted by the Planning Committee for a term of three (3) years to administer the zoning regulations pursuant to 24 V.S.A. Section 4448. The Legislative Body may remove the Administrative Officer for cause at any time after consultation with the Planning Commission. The Administrative Officer shall literally

administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate. An acting Administrative Officer may be appointed pursuant to Section 4448(b) of the Act and shall act in the Administrative Officer's absence or when he/she has a conflict of interest.

**Section 502: Planning Commission.**

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with the Act [§§4321– 4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4461(a)] and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- A. to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
- B. to prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; 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 Legislative Body [§4441(d)].

**Section 503: Development Review Board.**

The Development Review Board shall consist of not less than five (5) nor more than nine (9) members appointed by the Legislative Body for specified terms in accordance with the Act [§4460(b) and (c)]. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Legislative Body upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Development Review Board shall have all powers and duties as set forth in the Act 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, and any associated variance requests (Section 509),
- B. Applications requiring conditional use approval (Section 504),
- C. Applications requiring site plan review (Section 505),
- D. Applications requiring subdivision approval (Section 506),
- E. Applications for planned unit development (Section 507),
- F. Applications for rights-of-way or easements for development lacking frontage,
- G. Requests for waivers from one or more dimensional standards (Section 510),
- H. Act 250 applications subject to local Act 250 review.



## **Section 504: Administrative Review.**

A. **Applicability:** No land development, as defined in Section 4303(10) of the Act, may be commenced without a permit therefore issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in conformance with these regulations, and all applicable approvals required by the Development Review Board have been granted. In addition to the exemptions listed below, note the Limitations in Section 311 of this bylaw.

B. **Exemptions:** Zoning permits are not required for the following activities:

1. ***Required agricultural practices*** (RAP's), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets in accordance with section 4413(d) of the Act. Written notification, including sketch plan showing structure setback distances from roads, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAP's. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
2. ***Accepted (forest) management practices*** (AMP's) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with section 4413(d) of the Act.
3. ***Power generation and transmission facilities***, which are regulated under 30 V.S.A. section 248 by the Vermont Public Service Board. Such facilities should conform to policies and objective specified for such development in the Municipal Plan.
4. ***Hunting, fishing, and trapping*** as specified under 24 V.S.A. section 2295 on private or public land. The does not include facilities supporting such activities (firing ranges, rod and gun clubs, etc.) which are defined as recreation facilities for purposes of these regulations.
5. ***Residential landings or stairways less than 25 square feet*** (excluding decks and porches), handicap access ramps, and walkways which do no extend into or obstruct public rights of way, or interfere with visibilities or sight distances for vehicular traffic.
6. ***Normal maintenance and repair of an existing structure*** which does not result in exterior alterations or expansion or a change of use.
7. ***Woodsheds*** – An accessory structure used primarily for the storage of wood with 1-3 open sides. Woodsheds 120 square feet or less in area do not require a zoning permit. Woodsheds greater than 120 square feet in area do require a zoning permit.

C. **APPLICATIONS:** Applications for zoning permits shall be made to the Administrative Officer on forms provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application. In addition, the following information will be required as applicable:

**1. Permitted Uses:** Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11.0", drawn to scale that depicts the following:

- a) dimensions of the lot, including existing property boundaries,
- b) the location, footprint and height of existing and proposed structures or additions,
- c) the location of existing and proposed accesses, driveways, and parking areas,
- d) the location of existing and proposed easements and rights-of-way,

- e) existing and required setbacks from property boundaries, road rights-of-way, surface waters, and wetlands in accordance with these regulations,
- f) proposed erosion and sedimentation control measures to be undertaken,
- g) the location of existing and proposed water and wastewater systems, and
- h) other such information as required by the Administrative Officer to determine conformance with these regulations.

**2. Uses Subject to Development Review.** For development requiring approval from the Development Review Board prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit. An application that is not accompanied by all required fees will not be subject to development review until such fees have been paid.

**3. Conditional Use and Review.**

a.) After public notice and hearing, the Development Review Board shall determine if a proposed conditional use has the potential to have an undue adverse effect on the following:

- 1) The capacity of existing or planned community facilities;
- 2) 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
- 3) Traffic on roads and highways in the vicinity;
- 4) Bylaws and ordinances then in effect, and;
- 5) Utilization of renewable energy resources.

b.) In permitting a conditional use, the Development Review Board 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:

- 1) Increasing the required lot size or yard dimensions in order to protect adjacent properties;
- 2) Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property;
- 3) Controlling the location and number of vehicular access points to the property;
- 4) Increasing the street width;
- 5) Limiting the number, location, and size of signs;
- 6) Requiring suitable landscaping where necessary to reduce noise and glare to maintain the property in a character in keeping with the surrounding area. This may include enlarging the required vegetative buffer strip;
- 7) Specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use;
- 8) Requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.

The Development Review Board also has the option to adopt one or more of the review criteria found in 10 V.S.A. section 6086 as standards for use in conditional use review.

c.) As a condition of the grant of a conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these regulations.

d.) A change in use, expansion or contraction of land, area, or alteration of structures or uses which are designated as a conditional use within the district in which they are located and are existing therein, prior to the effective date of this regulation, shall conform to all regulations herein, pertaining to conditional uses.

**D. Issuance.** A zoning permit shall be issued by the Administrative Officer only in accordance with section 4449 of the Act and the following provisions:

1) Within 30 days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board for consideration. In accordance with 24 V.S.A. sections 4448 and 4449 of the Act, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.

2) No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Development Review Board or Legislative Body until such approval has been obtained. For permit applications requiring state agency approval, a zoning permit may be issued after all applicable permits have been received from the state.

3) Zoning permits shall include a statement of the time within which appeals may be taken; and shall require posting of a notice of permit by the Administrative Officer, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

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

5) Within 30 days of the issuance of a zoning permit, the Zoning Administrator shall deliver the original, a legible copy, or a notice of the permit to the Supervisor for recording in the municipal land records.

**E. Completion of Activities.** If the zoning permit is approved (issued), all activities authorized by its issuance shall be completed within two years of its effective date. No zoning permit shall take effect until the time for appeal under Section 705 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

**Section 505: Site Plan Review.**

No zoning permit shall be issued by the Zoning Administrator for any use or structure except for one- and two- unit dwellings until the Development Review Board grants site plan approval after public notice and hearing and in accordance with 24 V.S.A. section 4416. In reviewing site plans, the Development Review Board 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. The size, location, and design of signs

- G. Erosion and sedimentation control
- H. Snow removal

**Section 506: Subdivision of Land**

**A. Authority and Purpose.**

These by-laws are promulgated under the authority of 24 V.S.A. Chapter 117, Subchapter 6, Section 4402 and Sections 4418 through 4421 of the Act.

The Development Review Board shall administer these by-laws for the purpose of assuring orderly growth, coordinated development and to assure the comfort, convenience, safety, health, welfare and economic well being of the citizens of the Unified Towns and Gores of Essex County.

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**B. APPLICATION PROCEDURE - SUBDIVISION.**

**Single lot subdivisions (minor subdivisions)** that meet the minimum area dimension requirements of the by-law shall be approved by the Administrative officer and shall become effective following public notice under procedures described in Section 4403 of the Act except that no public hearing shall be required unless a request for a hearing is filed by an interested party within fifteen days of the date of publication of the notice, in which event the application shall be treated as multi-lot subdivision.

The application for a **single lot (minor) subdivision** shall consist of:

1. the zoning permit application,
2. two (2) copies of the plot plan drawn to scale depicting the boundary lines of the parcels involved, and
3. a map depicting its location in the town.

**Multi-lot subdivisions (major subdivisions)** shall be reviewed by the Development Review Board.

The application for a **multi-lot (major) subdivision** shall consist of:

1. The zoning permit application,
2. two (2) copies of plot plan drawn to scale depicting the boundary lines of the parcels involved,
3. a map depicting its location in town, and
4. supporting information including design and layout of streets, sidewalks, street lighting, fire protection, landscaping, water supply, wastewater and storm water drainage facilities, public utilities, waste management considerations and other pertinent data shall be supplied. Two (2) copies of all design and layout sheets are required.

**For all subdivisions** the applicant shall file a copy of the application with each abutting property owner at the time of submission to the Administrative Officer or the Development Review Board. A public hearing shall be held following public notice as required under Sections 4463 and 4464 of the Act.

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The Development Review Board may waive or vary, subject to appropriate conditions, the provision of any or all improvements and requirements as in its judgment of the special

circumstances of a particular application are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of connecting facilities or in proximity to the subdivision.

Where the Development Review Board finds that extraordinary and unnecessary hardships may result from strict compliance with these by-laws or where there are special circumstances of a particular site, it may vary or modify these by-laws so that the substantial justice may be done and the public interest secure; provided that such variations will not have the effect of nullifying the intent and purpose of the Plan or these regulations.

In granting modifications and waivers, the Development Review Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

**C. Review Procedure.**

Following the criteria set forth in Section 4464(b) of the Act, a decision must be made by the Development Review Board within 45 days. Upon receipt of a multi-lot subdivision, a public hearing must be held following the procedures in section 4464 of the Act. After the hearing the Development Review Board shall approve, modify and approve, or disapprove the subdivision application. Failure to act within 45 days shall be deemed approval.

**D. Preliminary Review.**

Upon request, the Development Review Board shall provide an opportunity for a preliminary review of any planned multi-lot subdivision at a regular or warned hearing. Applicants considering any large, multi-lot subdivision especially those requiring public facilities and utilities are strongly encouraged to seek preliminary project review. The purpose of a preliminary review is to ensure adequate information is provided in an application. No binding decisions can be made at the review session.

**E. Municipal Acceptance of Improvements.**

The approval by the Development Review Board of any subdivision shall not be deemed to constitute or be evidence, of acceptance by any municipality of any street, easement, land, utility, service or other facility.

**F. Landowner's / Management Associations.**

Wherever a landowners' or other legal association is established to own and maintain community or public facilities and common lands within or serving the subdivision in lieu of municipal acceptance, a copy of the covenants and bylaws relating to membership in the association and describing its organization and financing shall be submitted for review and approval by the Planning Commission.

**G. Development Requirements.**

*Streets, Access Roads, Sidewalks:* All streets, access roads and sidewalks shall be designed and constructed to provide for safe vehicular and pedestrian traffic. Consideration shall also be made for the utilization of streets and roads for recreational and alternative transit modes such as bicycling. Roads to be considered for acceptance by the town shall be constructed in accordance with minimum standards established by the Vermont Agency of Transportation for Class III highways.

Roadway vertical and horizontal alignment, right-of-way dimensions, cul-de-sacs, curbing, location and layout of curb cuts and intersections, storm water and surface water drainage works, sub-base

materials and surfacing shall be appropriate for the projected level of use, minimize maintenance requirements, maximize service life and provide a safe and attractive roadway system.

Road design shall take into consideration potential future growth, extension or expansion of roads and development in the vicinity.

Before any lot in the subdivision is transferred or conveyed, the sub-divider shall complete all required improvements to the satisfaction of the UTG's duly designated consulting engineer who shall file with the Development Review Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the sub-divider shall file with the Supervisor a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the UTG's Consulting Engineer. Any such bond shall be satisfactory to the Legislative Body, the Consulting Engineer, and UTG Attorney as to form, sufficiency, manner of execution, and surety.

*Water Supply and Fire Protection:* On-site community and individual water systems including source supplies and treatment, storage and transmission facilities shall be adequately sized and isolated from potential contamination sources. Such systems shall meet or exceed the minimum requirements of Environmental Protection Rules, Chapter 21 "Water Supply Rules". A certification by a Registered Professional Engineer in the State of Vermont shall be required that the system is designed and installed, in compliance with the applicable state standards.

Construction of municipal or community water supply systems or system extensions shall provide sufficient capacity to adequately serve the subdivision, and provide fire protection. The system shall meet or exceed the minimum requirements of Vermont Environmental Protection Rules, Chapter 21 "Water Supply Rules", and the standards of the American Water Works Association, and the "Recommended Standards for Water Works".

*Wastewater Disposal and Treatment Facilities:* On-site individual systems and community systems shall comply with applicable state standards. In no case shall wastewater collection, treatment and disposal systems be allowed to create health hazard, pollute the environment or endanger the public welfare.

*Storm and Surface Water Drainage:* Storm drains, culverts and related installations shall be adequate to insure unimpeded flow of all natural watercourses, to insure adequate drainage of private property and public facilities and to retain storm water where necessary to protect downstream properties.

Ditches, culvert inlets and outlets and other drainage works shall be appropriately constructed and adequately protected to ensure both temporary and permanent erosion and sediment discharge control including culvert headers, ditch lining and soil surface stabilization.

*Signs and Lighting:* Street lighting shall be adequate to provide for security and safety needs but at the same time recognize the importance of energy conservation and minimize unnecessary light pollution.

Street Signs shall be compatible with existing street signs in the vicinity, shall be located not to inhibit sight distances and shall be approved by the Development Review Board.

*Site Preservation, Recreation and Landscaping:* Due regard shall be demonstrated to preserve, to the extent possible, natural features such as trees, rocks, watercourses, other surface waters, critical wildlife habitats, scenic views, historic features and other community assets.

To the extent possible, a subdivision shall be laid out to preserve open spaces, retain working farm land and productive forests and maintain opportunity for low impact community recreational activities such as hiking, wildlife observation, fishing and hunting.

If deemed necessary by the Development Review Board, it may require provision for recreation facilities by the developer within the subdivided parcel.

Where appropriate the proposed subdivision shall include provisions for landscaping within public rights-of-way and on other common lands to increase the habitability, aesthetics and energy conservation potential of the property.

*Public Utilities and Waste Management Services:* The development plan shall address the subdivision needs for public utilities including power, telephone and cable television. Whenever feasible, underground utility services shall be provided.

*Unsuitable Land:* Land of such character that it cannot be safely subdivided for residential, commercial or public use because of danger to health or peril from fire, flood or other natural or human induced hazard shall not be approved by the Development Review Board. Appropriate measures may be considered by the Development Review Board where such measures can be undertaken by the developer to eliminate such hazards or reduce the level of hazard to reasonable risk.

Land subject to periodic flooding, poor drainage, or other hazardous conditions shall not be ordinarily subdivided. Land with unsuitable soil or inadequate capacity for individual sanitary sewerage disposal shall not be subdivided unless connected to a public or community wastewater treatment system.

*Information Necessary for Commission Review:* The Development Review Board may require of the developer submission of such additional information as it deems necessary to make its decision on any of the above. This may include but not necessarily be restricted to site topography, soil survey, design and/or certification by Registered Professional Engineer, boundary survey by Registered Land Surveyor, road profile, earthwork cross sections, hydraulic sizing of culverts and other pertinent information.

**Section 507: Planned Unit Development.**

A. With the approval of a development plan, the Development Review Board is empowered to vary certain zoning regulations under the criteria and procedures established in 24 V.S.A. sect. 4417.

B. Proposals for planned unit developments will be reviewed by the Development Review Board under the Site and Subdivision review processes as described in Section 506 of this bylaw, but in accordance with 24 V.S.A. sect. 4464(a)(1), the warning period for the hearing shall not be less than 15 days.

C. Land uses in a planned unit development may include single-, two- and multi-unit dwellings, neighborhood-type commercial facilities, recreational facilities, or public facilities.

D. Lot size, width, and setback requirements may be waived; however, these will be evaluated by the Development Review Board on their individual merit.

E. A planned unit development shall comply with the following standards:

- 1) The planned unit development shall be at least three (3) contiguous acres.
- 2) Community (or central) water and septic system may be required for more than five residential units.
- 3) Planned unit developments of less than 10 acres shall have at least 50 percent of the development in open space reserved for common use. Planned unit developments larger than 10 acres shall have at least 25 percent of the development in open space reserved for common use.
- 4) Internal roads serving the planned unit development must be at least 50 ft. in width, have a crushed gravel surface, and be appropriately marked for emergency vehicular access.

F. The Development Review Board may allow as many as 25 percent more dwelling units than could be permitted if the land was subdivided into lots in conformance with the regulations for the district in which such land is divided.

G. The Development Review Board may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development, provided the rules and regulations are not inconsistent with the zoning bylaw.

### **Section 508 Appeals.**

A. Any interested person as defined under section 4465 of the Act may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Development Review Board, or the Supervisor, and by filing a copy of the notice with the Administrative Officer.

1. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under section 4468 of the Act. The Board shall give public notice of the hearing and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

2. The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal in accordance with section 4470 of the Act.

3. In accordance with section 4468 of the Act, all appeal hearings shall be open to the public and 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 state statutes [3 V.S.A. section 810]. Interested persons may appear and be heard or be represented by an agent or attorney at the hearing.

4. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under section 4464(b) of the Act. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the



Administrative Officer and Supervisor as part of the public records of the municipality. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

B. The definition of an interested person under section 4465(b) of the Act includes 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. Any of the Unified Towns and Gores of Essex County or any adjoining municipality;
3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
4. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
5. Any department or administrative subdivision of the state owing property or any interest therein within the municipality, and the Vermont Agency of Commerce and Community Development.

C. Notice of Appeal (To Development Review Board)

1. A notice of appeal filed under this section shall be in writing and include the following information, in accordance with section 4466 of the Act:
2. Name and address of appellant
3. Brief description of the property with respect to which the appeal is taken
4. Reference to the applicable provisions of these regulations
5. The relief requested by the appellant, including any request for a variance from these regulations, and
6. Reasons why such relief is believed proper under the circumstances

D. Appeals to Environmental Court

In accordance with section 4471 of the Act, an interested person who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered by the Board under Section 705 of these regulations, within 30 days of such decision, to the Vermont Environmental Court.

### **Section 509: Variances**

The Development Review Board shall hear and decide requests for variances as required by the Act [section 4469(a)] and appeal procedures under Section 508 of these regulations. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- A. There are unique physical circumstances or conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located;
- B. Because of these unique physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that a variance, if authorized, is necessary to enable reasonable uses of the property;
- C. The unnecessary hardship has not been created by the appellant;
- D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
- E. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and the plan.

**Section 510: Waivers.**

(A) The Development Review Board may grant waivers to reduce dimensional requirements for setbacks only. All waiver requests shall be reviewed and approved through the conditional use review process.

(B) Applicants seeking a waiver should attempt to secure written documentation from adjoining property owners indicating that they would not object to a reduction of the minimum setback requirements. In granting a waiver the Board may:

- (i) Provide mitigation through design, screening, or other remedy;
- (ii) Allow structures providing for disability accessibility, fire safety, and other requirements of law; and
- (iii) Provide for energy conservation and renewable energy structures.

**ARTICLE 6: VIOLATIONS and ENFORCEMENT**

**Section 601: Violations.**

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

**Section 602: Notice of Violation.**

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

offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

**Section 603: Limitations on Enforcement.**

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

**ARTICLE 7: PUBLIC HEARINGS**

**Section 701: Public notice.**

Any requirement of public notice required by these regulations, whether or not required by any provision of the Act, and whether applicable to the Development Review Board, Planning Commission, or Legislative Body, shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- publication of the date, place and purpose of such hearing in a newspaper of general circulation in the Unified Towns and Gores of Essex County;
- posting of such notice by the Administrative Officer in three or more public places within the municipality, including posting the notice within view of the property from the public right-of-way most nearly adjacent to the property for which an application is made;
- written notification to the applicant and to owners of all adjoining properties subject to development, which includes a description of the proposed project, informing the recipient where more information may be obtained, and that participation in the local proceeding is prerequisite to the right to take any subsequent appeal; and
- for hearings on multi-lot subdivisions located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

**Section 702: Hearings.**

In accordance with the section 4461 of the Act, all meetings and hearings of the Development Review Board, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board. The Board, in conjunction with any hearing under this bylaw, may:

- Examine or cause to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- Require the attendance of any person having knowledge in the premises;
- Take testimony and require proof material for its information; and
- Administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve

status as an interested person to demonstrate that the criteria set forth under Section 4465 of the Act are met. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

**Section 703: Decisions.**

Any action or decision of the Development Review Board shall be taken by the concurrence of a majority of the members of the Board. In accordance with section 4464(b) of the Act, the Development Review Board shall issue a decision within 45 days after adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:

- A. All decisions shall be in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 705.
- B. In rendering a decision in favor of the applicant, the Development Review Board may attach reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.
- C. All decisions of the Development Review Board shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Supervisor as part of the public record of the municipality.

**ARTICLE 8: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE**

**Section 801: Amendments.**

These regulations may be amended according to the requirements and procedures, established in Sections 4441 and 4442 of the Act.

**Section 802: 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.

Except for Section 4413 of the Act and where, in these regulations, specifically provided to the contrary, it is not intended by 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.

**Section 803: Effective Date.**

This regulation shall take effect in accordance with the voting and other procedures contained, in Section 4442 of the Act.

**Section 804: Separability.**

The invalidity of any article or section of these regulations shall not invalidate any other

article or section thereof.

**Section 805: Repeal.**

This by-law supersedes all previous by-laws.

**ARTICLE 9: DEFINITIONS**

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

**Section 901: Word Definitions.**

The word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word *shall* is mandatory, the word *may* is permissive.

The words *used* or *occupied* include the words intended, designed, or arranged to be used or occupied.

The word *lot* includes the words plot or parcel.

**Section 902: Term Definitions.**

Accessory dwelling: An efficiency or one-bedroom apartment that is located within or appurtenant to an owner-occupied single family dwelling, and is of a nature customarily incidental and subordinate to, the principal dwelling. Such a dwelling shall not exceed, in area, 30 percent of the total habitable floor space of the primary dwelling, or 600 square feet in area, whichever is greater. Accessory dwellings shall have sufficient wastewater capacity and shall meet all applicable setback and coverage requirements specified in these bylaws.

Accessory use or structure: A use or structure on the same lot, and of a nature incidental and subordinate to the principal use or structure and located on the same lot.

Accessory uses and structures shall comply with all applicable setback and coverage requirements specified in these bylaws.

Acre: An. acre of land contains 43,560 square feet.

Act: 24 V.S.A. Chapter 117 entitled '*The Vermont Municipal and Regional Planning and Development Act*'.

Agricultural: The production, keeping or maintenance, for sale, lease or personal use, of plants and animals, including but not limited to: forages and sod crops, grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof; bees and apiary products, fur animals, trees and forest products, maple sugaring, fruits of all kinds; vegetables; nursery, floral and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Alteration: A structural change that increases the exterior height, width, or length of a building, including relocation of , or addition to, an existing building.

Appropriate Municipal Panel: The Planning Commission or the Development Review Board for the Unified Towns and Gores of Essex County.

Auto repair: Any area of land, including structures thereof, which is used or designed to be used for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers.

Auto service station: Any area of land, including structures thereon, used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. An auto service station is not a sales facility for automobiles, trucks or trailers.

Buffer: The unused portions of a lot abutting adjacent lots, roads, or water bodies. Buffer areas shall not be used for traffic movement, parking or vehicle storage. It shall be part of the yard area.

Buildable area: The area of a lot which remains after the minimum setback requirements have been met.

Building: Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building coverage: The horizontal area measured within the outside of the exterior walls including all attached porches and decks of the ground floor and of all principal and accessory buildings on a lot.

Building front line: That line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. The face includes porches whether enclosed or unenclosed but does not include steps.

Building height: The building height is determined by first determining the average grade, and then measuring the vertical distance from the average grade to the midpoint between the highest roof ridge and its associated eaves for gable, hip or gambrel roofs. This is a building industry standard.

Business/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.

Campground: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by the general public as temporary living quarters for recreation, educational, or vacation purposes.

Campsite: Any plot of ground within a campground intended for exclusive occupancy by a camping unit or camper.

Cemetery: Property used for the interring of the dead.

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

Church: A structure which by design and/or construction is primarily intended for the conducting of regularly attended, organized religious services and accessory use associated therewith.

Clinic: An building used by members of the skilled medical professions (medical, dental, veterinary, or health) for the diagnosis and outpatient treatment of human or animal ailments.

Club, private: Buildings or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

Commercial service: Any use of land, or structures, for the sale or storage of goods and merchandise, the transaction of business or the provision of services or entertainment.

Communication facility: A facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various communications devices and equipment.

Conditional use: A use that may occur within a district but that shall be reviewed by the Development Review Board under the criteria set forth in Section 204 of these regulations.

Coverage: That percentage of the lot area covered by all buildings on a lot.

Depth: The shortest distance between the front lot line and the rear lot line.

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

Dwelling; multi-family: A residential building designed for or occupied by three or more families, living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single family: A detached residential dwelling unit designed for and occupied

by one family only.

Dwelling, two family: A detached residential dwelling unit designed for and occupied by only two families living independently of each other.

Emergency service: Police, firefighters, and emergency medical technicians, and other first responders to public safety crises.

Essential services: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Family: One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit. This definition provides that unless all members are legally related no such family shall contain over five persons, but further provides that domestic servants and farm workers employed on the premises may be housed on the premises without being counted as a family or families.

Farm structure: 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

Forestry operations, primary: Includes the erection of temporary structures, the construction of logging roads for the purpose of harvesting timber, the removal of fill, gravel, stone, or loam for the construction of logging roads, and the erection of chipping facilities incidental to timber harvesting operations

Forestry operations, secondary: Any facility devoted to the processing of forest products including sawmills and similar facilities.

Garage, Private Residential: A structure that is accessory to a single- or two-family dwelling, is used for the parking and storage of vehicles owned and operated by the residents thereof, and is not part of a commercial enterprise or available to the general public.

Group home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. sect. 4501, and who live together as a single housekeeping unit. In addition to room, board, and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Height: The vertical distance of a structure measured from the average elevation of the proposed structure to the highest point of the structure.



High Water Mark: The mark on trees, rocks, embankments and the like caused by the seasonal high water level in a lake, pond, or stream. This does not include an unusual flood but the customary high water level.

Home occupation: An occupation, carried on within a principal or accessory residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and which does not substantially alter the character thereof.

Hydric soils: Those soils which are customarily wet or poorly drained and/or that support certain wetland species of plants.

Industrial facility, light: Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, provided that 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.

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

Lodging house: A building in which rooms are rented, with or without meals to three (3) or more persons. A boarding house, a rooming house, a "Bed and Breakfast," or a furnished room shall be deemed a lodging house.

Log/Lumber transfer yard: An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

Lot: A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. A lot shall have frontage on an improved public street, or other means of access approved by the Development Review Board and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;
- d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this regulation.

Lot measurements: See Depth and Road Frontage.

Lot of record: A lot which is part of a subdivision recorded in the office of the Supervisor for the Unified Towns & Gores, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Mineral extraction: The extraction and removal of rock, stone, ore, sand, gravel, soil, minerals, and similar materials from the surface or subsurface.

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

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

Mobile Home Park: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

Modular (or Prefabricated) Housing: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motel: A building containing rooms which are rented as a series of sleeping units, with each sleeping unit consisting of at least a bedroom and bathroom. This definition shall also include hotels.

Municipal office: A building, or portion thereof, dedicated to the administrative function of town officials, including record keeping, processing and storage of permits, registrations, certificates, licenses, and deeds, and collection of fees or fines.

Natural areas: Those areas designated by the Vermont Natural Heritage Program or other parties as having unique and irreplaceable qualities.

Nonconforming lot or parcel: A lot or parcel that does not conform to the present bylaws covering dimensional requirements but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Nonconforming structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

Nonconforming use: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nonconformity: A nonconforming lot or parcel, structure, or use.

Non-residential use: All uses of buildings, structures or land except single family dwellings, two family dwellings and multi-family dwellings.

Planned unit development: The development of one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

Plat: A sketch or map of a proposed subdivision which is of sufficient detail for discussion and review.

Principal building: A building in which is conducted the main or principal use of the lot on which said building is located.

Private road: A road which has not been officially deeded to the Unorganized Towns and Gores of Essex County and, accepted by the Legislative Body.

Public facility: Any structure or equipment that is necessary for conducting a service by a government or public utility. Includes, but is not limited to: telephone, electric and cable television lines, poles, equipment and structures, water or gas pipes, mains, sewer pipes, valves or structures, pumping stations, municipal garages, and recycling centers.

Public assembly: Includes auditorium, theater, public hall, school hall, meeting hall, church and temple.

Recreation: A land use or buildings owned and operated by a commercial or non-profit entity whose purpose is to provide recreational opportunities.

Restaurant: An establishment where food and drink are prepared, served, and consumed, primarily within the principal building.

Residential use: Includes single-family dwelling, mobile home dwelling, two-family dwelling and multi-family dwelling.

Retail facility: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right of way: The right of one to pass over the property of another.

Road frontage: Distance along a public road, street, or right of way measured in feet.

School: Any building or part thereof that is designed, constructed, or used for any education or instruction in any branch of knowledge.

Setback: The distance between the road or high water mark and the front line of a building or any projection thereof, except uncovered steps.

Shore land: The land within 250 feet of any stream, river, lake or pond.

Slope: Slope percent is calculated by dividing the rise or elevation by the run or horizontal distance. For example: A slope that gains 10 feet of elevation over 100 feet of horizontal distance is a 10 percent slope:  $10/100 = 10\%$

Stream: A watercourse having a source and terminus, banks and channel through which water flows.

Street (or Road): Public way or road for vehicular traffic which affords the principal means of access to abutting properties.

Street frontage: Lot lines which abut a public street or road.

Street line: Right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established, the street shall be considered to be twenty five feet from the center line of the street or road.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below, the surface of land or water. Examples of structures include, but are not limited to: buildings, swimming pools, mobile homes, fences, decks, porches, sheds, docks, and billboards.

Subdivision, major (multi-lot): The division of a lot, parcel, or tract of land into more than two lots, parcels, or tracts for development, sale, or lease. This includes the division of any parcel of land into three or more improvable lots within any five year period. For the administration of this ordinance, no lot created prior to the date of adoption shall be counted.

Subdivision, minor (single-lot): The division of a lot, parcel, or tract of land into two lots, parcels, or tracts for development, sale, or lease.

Transportation facility: An establishment providing services incidental to shipping or transportation, such as loading and unloading truck or rail cargo and freight, forwarding and packing services, and arranging passenger or freight transportation.

Travel trailer: A Vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreation, camping and travel use and including but not limited to travel trailers, fifth wheelers, truck campers, camping trailers and self-propelled motor homes. A property owner may park or store his own recreational vehicle(s), or park that of a bona fide visitor, on his own property without special approval.

Any person intending to park a recreational vehicle(s) anywhere for a period of 6 months or more shall obtain a zoning permit from the Administrative Officer if the above paragraph does not apply (a property owner may park or store his own recreational vehicle(s), or park that of a bona fide visitor, on his own property without special approval.) No zoning permit may be issued unless the recreational vehicle(s) conforms to the regulations herein specified.

Use, permitted: Use specifically allowed in the district, excluding illegal uses and nonconforming uses.

Violation: The commencement or continuation of any land development or use that does not meet the requirements of this bylaw.

Wetlands: Those areas which contain wet (hydric) soils and/or support certain species of plants. A list of possible plants is available from the Vermont Department of Environmental Conservation - Wetlands Division.

Wildlife habitat, critical: Those areas designated by the Vermont Natural Heritage Program or other parties as having unique and irreplaceable habitat that currently support or could support unusual wildlife species.

Woodshed – An accessory structure used primarily for the storage of wood with 1-3 open sides. Woodsheds less than 120 square feet in area do not require a zoning permit. Woodsheds greater than 120 square feet in area do require a zoning permit.

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

Yard, front: Space between the front lot line and the front line of a building extending to the side lot lines of the lot. The depth of the front yard shall be measured from the center of the road to the point of the building closest to the road. For shore land lots, the front yard is considered the side toward (facing) the water.

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

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