

# Bethel Vermont Unified Bylaw

Drafted by the Bethel Planning Commission and the Development  
Review Board  
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# **1. General Provisions**

## **1.1 Introduction**

The Planning Commission has prepared this Bylaw to enable the Town of Bethel to implement the Town Plan, while providing the minimum amount of regulation necessary to achieve that purpose. Any current land use that was legal prior to the adoption of this Bylaw may be continued. This Bylaw does not regulate some uses, such as farming and forestry that are exempted by Vermont law.

## **1.2 Enactment and Effective Date**

In accordance with the Vermont Planning and Development Act 24 V.S.A Section 4401(c), hereinafter referred to as the "Act," there is hereby established a Unified Bylaw for the Town of Bethel which is set forth in the text and maps below.

## **1.3 Title**

This bylaw shall be referred to as the Bethel Unified Bylaw. When used in this document, it may also be referred to as the 'Unified Bylaw' or simply 'this bylaw'.

## **1.4 Purposes of This Bylaw**

This Unified Bylaw is designed to promote the health, safety and general welfare of the inhabitants of the Town of Bethel; to protect and conserve the value of property; to facilitate adequate provision for transportation, water, sewage, and solid waste disposal, fire safety, schools, and other public requirements; to ensure the healthful and appropriate distribution of settlement; to protect the rural residential environment, agricultural, recreational, and other land from over development, traffic congestion, and inadequate parking; to foster orderly community development while preserving the natural resources and retaining the beauty and historic architectural character of the Town; and to give effect to the Bethel Town Plan.

## **1.5 Intent**

This Bylaw is intended to guide the future use of land and water; the placement of structures on lots and the relationship of structures to open space; and the provision of supporting facilities such as off-street parking. In accordance with the provisions of Vermont Law, this Bylaw is not intended to deprive individual property owners of the reasonable use of their land; does not discriminate amongst social and/or economic groups; does not regulate the materials and manner of building construction and does not regulate the design of streets.



## **1.6 Severability**

The invalidity of any article or section of this Bylaw shall not affect the validity of any other article or section thereof.

## **1.7 Precedence**

Whenever this Bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, bylaw, rule, permit, easement, or agreement, the provisions of this Bylaw shall control.

## **1.8 Status of Prior Regulations**

Upon adoption of this Bylaw or amendments thereto, all prior Bethel zoning ordinances and subdivision regulations shall be superseded.

## 2. Application of this Bylaw

### 2.1 General Operation

The purpose and intent of this Bylaw shall be accomplished by dividing the land in Bethel into various zoning districts. In each district, certain uses of land are permitted as a matter of right upon issuance of an administrative permit by the Administrative Officer or their Assistant, while others (called conditional uses) are allowed with the approval of the Development Review Board (DRB). In either case, a Zoning Permit must be obtained for most construction or for significant changes of use. Standards are set forth in this Bylaw for new construction, the making of improvements, or for significant changes in land use. Persons interested in undertaking a construction or development project are encouraged to contact the Administrative Officer for general information and guidance.

### 2.2 Administrative Permit Required

Except where exempted under this Bylaw, no person shall undertake the following without a permit as provided for in this Bylaw:

- the division of a parcel into two or more parcels
- the combination of parcels
- the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure
- any mining, excavation or fill
- the construction of a road or utility
- any change in the use of any building or other structure, or land.
- Any sitework incidental to construction (see 2.2.3)
- In the Flood Hazard Overlay district, any dredging, grading, paving, excavation, or drilling operations, or storage of equipment or materials shall also not commence without a Zoning Permit issued by the Administrative Officer (see Section 2.3 for municipal exemption)

#### **You need a permit!**

Just because a use or type of development is “permitted” it does not mean you don’t need a permit. You do!

Permits allow the town to track development throughout town and to be aware of any potential health or safety hazards that might exist.

Some uses are exempted from the permitting process by statute or by the town. See section 2.3 for more information.

If you are unsure whether or not you need a permit, contact the Bethel Administrative Officer.

Unless otherwise specifically exempted, no division of a parcel of land whether by sale, gift, lease, or other instrument; or by the filing of a plat in the Town Land Records, where the act creates two or more lots may take place without an administrative permit after the effective date of this Bylaw.

All permits issued under this bylaw shall include a statement in content and form approved by the Secretary of the Agency of Natural Resources that additional State

permits may be required and that the permittee should contact State agencies to determine what, if any, permits are needed prior to commencement of sitework and construction.

Most uses other than one and two-unit dwellings require site plan approval under 6.9 prior to issuance of a permit. Some uses also require conditional use approval under section 6 prior to issuance of a permit. See each district under 4.5 for the uses and their permit processes.

### **2.2.1 Existing Land Uses – No Permit Needed**

A permit or approval shall not be required for any development or use which has been lawfully established prior to the adoption of this Bylaw. This provision shall also apply to any subdivision that has received a state Subdivision Approval and filed a plat.

### **2.2.2 Construction Given Prior Approval**

This Bylaw does not require any change in plans for construction of a building, structure, or development of land complying with this Bylaw or amendments thereto if a prior Zoning Permit was duly issued and the entire building or structure or land development is to be completed in accordance with such plans within two (2) years of the effective date of the Zoning Permit.

### **2.2.3 Start of Development**

Development begins with sitework incidental to construction, and for some projects how one is proposing to alter the landscape with activities such as land clearing, tree-cutting, filling, or grading may be considered part of the review. Approvals may include requirements to retain features or vegetation. Therefore, all applicants should check with the Administrative Officer prior to undertaking any sitework to see if it will be a regulated part of a development. Also, applicants are reminded that any project that disturbs more than one acre of land requires a stormwater construction permit from the state, and any project creating more than one acre of impervious surface (including gravel roads or parking), or that qualifies as an industrial use, is required by the state to have an operational stormwater permit.

### **2.2.4 Expiration of Permit**

All projects, as authorized by an Administrative Permit, shall be commenced within a period of two years and substantially complete within 3 years, unless construction has been delayed by litigation to secure other permits or approvals. In that case, a permit extension can be requested from the Administrative Officer for an additional two years

#### **Is my farm structure exempt?**

In order for a farm structure to be considered exempt, the structure must conform to the Secretary of Agriculture's definition of "farming use. Please see 2.3 Uses Exempt from This Bylaw.

For regulation of on Accessory on Farm Businesses, please see 24 V.S.A. § 4412 to find out whether or not you need a zoning permit.

from the end of litigation. Where projects were commenced and substantially complete on time in conformity with the permit, the permit shall remain valid and run with the land regardless of ownership. Projects not commenced or substantially completed by the time of expiration of an Administrative Permit must reapply for a new permit and any other necessary approvals. Expiration of the Administrative Permit shall also render any approvals under this bylaw void. (See section 10.15.15 for definition of “substantially complete.”)

### **2.3 Uses Exempt from This Bylaw**

Zoning Permits shall not be required, except as may be applicable within the Flood Hazard Overlay District, for the following:

1. Normal maintenance and repair of an existing building or structure (unless abandoned) that does not result in any change to the footprint or height of a building or structure, or change in use;
2. Public auctions, garage sales, or yard sales not exceeding four (4) consecutive days or more than ten (10) days in a calendar year;
3. Required Agricultural Practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)]. Written notification, including a sketch plan showing structure setback distance from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for RAPs. **Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary of Agriculture. See 24 V.S.A. § 4412 (11) for rules regarding Accessory On-farm Businesses.**
4. Small or temporary signs (see Section 3.12.4);
5. Public utility poles and fixtures (see Selectboard for permit);
6. Fences or walls under eight (8) feet high and outside the highway right-of-way;
7. Fuel or propane storage tanks not used for commercial purposes;
8. Construction of a driveway or private road in accordance with the Bethel Road Specifications (see Select Board for access permits);
9. Drainage facilities;
10. Dish antennae twenty-four (24) inches or less in diameter, provided setback requirements are met;

11. Accessory buildings or structures with a floor area not more than 100 square feet and less than 35 feet in height;
12. Subdivision of land parcels incidental to title transfers between owners for the purpose of establishing clear property line boundaries.
13. Replacement or repair of an existing structure or building damaged by fire or other disaster provided that the structure or building is no greater in any dimension and is within the original footprint, and that reconstruction begins within two years of the date of damage.
14. Public utility power generating plants and transmission facilities, or telecommunications facilities regulated under 30 V.S.A. §248
15. Placement of antennae used to transmit, receive, or transmit and receive communications signals 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.
16. Any use or structure not clearly regulated by this Bylaw and determined by the Administrative Officer to be of such a minimal nature as to have no, or only a negligible (de minimus) impact on the property and surrounding land uses, and to be in conformance with the Town Plan. (Such a decision is appealable to the DRB.)
17. Forestry activities not incidental to other development and done in accordance with the Accepted Management Practices as adopted by the Commissioner of Forests, Parks and Recreation and forestry operations as defined in 10 VSA section 2602.
18. All municipal road construction, maintenance, paving, streambank repair and culvert repair/replacement.

## **2.4 Limitations on Regulation under this Bylaw**

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

1. State- or community-owned-and-operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the state department of education.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals.
5. Regional solid waste management facilities certified under 10 V.S.A. chapter 159.

6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

## **2.5 Referral to State Agency**

In accordance with Section 4424 of the Act 24, no Permit for the development of land in special flood hazard areas, regulated river corridor or other designated hazard area shall be issued by the Administrative Officer prior to the expiration of a period of 30 days following the submission of the application per section 5.2 of this bylaw.

## **3. Requirements for All Districts**

### **3.1 Nonconformities/Existing Small Lots & Uses**

#### **3.1.1 Nonconformities**

A nonconforming use of land or non-conforming structure may be continued indefinitely, subject to the following limitations:

1. Such use/structure shall not be significantly altered or enlarged in any way which would increase its nonconformity.
2. Such use/structure shall not be changed to another nonconforming use/structure without approval by the DRB, and then only to a use which, in the opinion of the DRB, is of the same or a more restricted nature.
3. A non-conforming use shall not be re-established if such use has been discontinued for a period of one (1) year (except due to loss of the building it is in) or had been changed to a conforming use prior to discontinuance.
4. A non-conforming structure shall not be repaired or reoccupied if abandoned under 3.6 or unless changed to a conforming structure.
5. Such use shall not be restored for other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within one year of the damage, the nonconforming use of such building shall be deemed to have been discontinued unless such nonconforming use is carried on without interruption in the undamaged part of the building.

#### **3.1.2 Existing Small Lots**

Any lot in individual, non-affiliated, and separate ownership from surrounding properties and in existence on the effective date of this Bylaw may be developed in conformance with other applicable zoning regulations even though the lot does not meet minimum lot size and dimension requirements, provided such lot is not less than one eighth (1/8) acre in area with a width or depth dimension of not less than forty (40) feet.

If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for the purposes of this section. However, such lot shall not be deemed merged and may be separately conveyed, if:

1. the lots are conveyed in their pre-existing, nonconforming configuration; and
2. on the effective date of this Bylaw, each lot had been developed with a water supply and wastewater system; and
3. at the time of the transfer, each water supply and wastewater system are functioning in an acceptable manner; and
4. deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater disposal systems in case a wastewater system fails to function as defined under 24 V.S.A. § 4406(1)(a)(iv).

### **3.1.3 Subsequent System Failure**

If, subsequent to conveyance as authorized under subsection 3.1.2 above, a wastewater system fails, the owner shall be required to obtain from the Agency of Natural Resources, a wastewater permit or certification that the system has been modified or replaced and no longer constitutes a failed system. The owner shall file a copy of the wastewater permit or certification with the Administrative Officer and file with the Town Clerk for recording in the land records.

### **3.1.4 Maintenance and Repair**

Nothing in this article shall be deemed to prevent the normal maintenance and repair of a non-complying structure or a structure containing a nonconforming use, provided such action does not increase the nonconformity.

## **3.2 Required Frontage On, Or 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 DRB, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width.

Any new road or drive that accesses a Town highway or State highway will require an Access Permit and possibly a permit to work in the right of way from the Selectboard or the Agency of Transportation, respectively. Such permits must also conform to the Town and Regional Plan in effect.

In the DRB's review of a private road or right-of-way as part of subdivision approval, the following shall be taken into consideration: adequacy of drainage and culvert placement, erosion control measures, emergency vehicle access, and site distances at public road intersections. If evidence leads the DRB to find that permanent access to a public road exists, it shall not withhold approval.

In situations where a lot is to be developed that does not have frontage on a public road, frontage shall be established by measuring from the centerline of the right-of-way or lot line whichever is closest to the structure.

### **3.3 Lots in Two Zoning Districts**

If a lot is located in two or more districts, the portion of land in each district shall be governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being entirely in the district with the majority of the lot acreage.

### **3.4 Temporary Uses and Structures**

Temporary permits may be issued by the Administrative Officer for a period not exceeding one (1) year for nonconforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or terminate the use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year. Any temporary permits involving extraction of soil, sand, or gravel are subject to all requirements of Section 6.10.2 of the Unified Bylaw.

### **3.5 Travel Trailers/Recreational Vehicles**

No travel trailer/recreational vehicle, except at a travel trailer/recreational vehicle sales lot, shall be parked in the Town of Bethel except in accordance with the following:

1. A travel trailer/recreational vehicle may be parked and used as living quarters at a trailer camp/park which meets state standards.
2. A travel trailer/recreational vehicle may not be located on a premise and used as living quarters for more than twenty-one (21) days during a calendar year, unless written permission has been obtained from the landowner, and a zoning permit has been obtained as a dwelling unit. Landowner permission shall authorize the location and occupancy of a travel trailer/recreational vehicle only by a bonafide non-paying guest, and such travel trailer/recreational vehicle shall be registered and remain in a roadworthy condition. Proof of registration must be provided to the Town when applying for zoning permit.
3. No travel trailer/recreational vehicle shall be parked within setbacks. Travel trailers or recreational vehicles may be stored on their owner's property as if it were an accessory structure.



### **3.6 Abandonment of Structures**

Within two years after a permanent or temporary structure has burned, collapsed or otherwise been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the existing grade and, to prevent erosion and improve aesthetics, the owner shall establish a permanent vegetative cover. Failure to take such action shall be a violation of this bylaw. It may also present a fire or health hazard and the Town Health Officer or Fire Chief may take action under their own authority.

Nothing in this Regulation shall prevent reconstruction or restoration within two (2) years of a building damaged by fire, accident, or act of God, to its condition prior to such damage, except as specified under 4.12.3.3. Such reconstruction shall be considered a permitted use and shall require a permit.

Nothing in this section shall be construed to restrict the authority of the Town of Bethel to abate a nuisance or to abate or remove public health risks or hazards

### **3.7 Minimum Off-Street Parking Requirements**

Off-street parking spaces shall be provided in accordance with this section in all districts for every building hereafter erected or enlarged, or for any expansion or change of use.

#### **A. Minimum Parking Standards (can be modified under G. below)**

<b>Land Use Category</b>	<b>Amount of parking (inc. employees)</b>
Dwelling	1/unit
Accessory Dwelling Unit/Lodging	1/unit
Short term rental	1 per 2 bedrooms
Office	2/1,000 sq.
Retail	3/1,000 sq.
Industrial (light or heavy)	1/per employee per shift
Restaurant/Bar	1/3 seats
Civic and Other	As required by DRB

**B. Non-Residential:** The Development Review Board may require additional off-street parking for any non-residential use if they find that minimum spaces are not sufficient.

**C Size of Parking Space:** A parking space shall be at least nine (9) feet in width and eighteen (18) feet in length.

**D. ADA Accessible Parking:** Any public building must provide for accessible parking, and each accessible parking space must be at least thirteen (13) feet in width and eighteen (18) feet in length, with a minimum 3-foot-wide accessible route connecting to

the building in accordance with the ADA Accessibility Guidelines. Accessible parking spaces will be so designated by appropriate signs.

E. **Setbacks:** Parking lot setbacks shall be a minimum of 5 feet.

F. **Off-street Loading:** In all zoning districts, other than the Village & Core Districts, off-street loading space shall be provided for commercial, industrial or institutional uses which will receive shipments in vehicles too large for a standard parking space. Space provided shall be specifically for off-street loading and shall be large enough to fully accommodate the maximum number of such vehicles expected to be on the premises at any one time. Service areas may also be required for development subject to conditional use review to accommodate emergency vehicles, waste collection and disposal areas, transit service, or other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner that parked vehicles will not block or obstruct access or sight visibility at intersections.

G. **Modification of parking requirements:** On-site parking requirements may be reduced under the review process for that use, based upon a determination by the DRB that special conditions exist which warrant reducing the minimum parking standard. The DRB may approve up to a 50% reduction of off-street parking spaces in Subsection A above. In the Village and Core Districts, the parking may be reduced beyond 50%, if warranted.

When approving a modification of the parking standards, the DRB shall consider the following:

1. Is the site located on or within 1,000 feet of a transit route?
2. Are there shared parking facilities with abutting businesses which are sufficient to meet parking demand and a written agreement to share such parking?
3. For mixed-use projects, do the proposed uses have staggered business hours with minimal overlap?
4. Does the type of business proposed generate substantial pedestrian traffic, and are adequate pedestrian facilities present?
5. Is a reduced number of parking spaces adequate due to mitigation efforts such as bicycle parking, ridesharing or innovative measures (e.g., the provision of transit passes or sponsoring car sharing for tenants/ employees)?
6. Is safe and adequate on-street parking available?
7. Are green areas to be set aside for future conversion to parking in the event that the amount of space initially permitted is deemed inadequate to meet demonstrated need?
8. Can the minimum standards not be met for the redevelopment of an existing building?

### **3.8 Lots**

#### **3.8.1 More Than One Residence per Lot**

With the exception of Planned Unit Developments, if more than one primary residential structure shall be placed on any one lot, such structure shall be located so that it and any structure accessory to it could be set off as a separate lot conforming to all the applicable provisions of this Bylaw, including means of access. This does not apply to accessory dwellings under 3.16.1, as they may not be subdivided off as an accessory dwelling. Detached dwellings under 3.16.2 are also not required to be subdividable. ADUs or detached dwellings that are able to be subdivided off on compliant lots shall require a permit to do so as a single unit dwelling.

#### **3.8.2 Multiple Use of Lots**

A combination of principal uses on a lot is permitted provided:

1. The lot is large enough to meet the area standards of the most intensive use, and
2. Setback requirements and all other applicable standards are met for all uses.

Examples of combined uses are an apartment over a store or a single-family residence on the same lot as a multi-family dwelling.

#### **3.8.3 Division of Lots**

See Section 7 on Subdivisions.

#### **3.8.4 Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage or other requirements of this Bylaw do not comply with the minimum standards prescribed for each district, unless through a waiver under Section 8.1 or part of a Planned Unit Development under Section 9.

### **3.9 Protection of Home Occupations**

Nothing in this Bylaw shall 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 which does not have an undue adverse impact on the character thereof, and which meets the following standards:

1. The home occupation shall be carried on by residents of the premises, employing not more than two (2) persons not living on the premises;

2. The occupation is carried on wholly within a minor portion of the building or within an accessory building or structure and occupies less than 50 % of total living area;
3. Exterior signs or displays other than those normally permitted in the district or exterior storage of material shall not be permitted;
4. Obnoxious or excessive runoff, noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the business shall not be generated; and
5. Adequate parking shall be provided off-street (see section 3.7)

### **3.10 Performance Standards**

No land or structure in any district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which do or might adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of showing that the following standards are met shall be on the applicant for a Zoning Permit. These standards shall apply at the property line.

1. **Noise:** No noise or vibration is permitted which is incompatible with the reasonable use of the surrounding area.
2. **Air Pollution:** No emission, including odor, smoke, fumes and dust is permitted which could cause damage to health, animals, vegetation or other forms of property.
3. **Glare, Lights, Reflection:** No lighting shall be permitted which is a nuisance to others or which could impair the vision of any motor vehicle, or which is detrimental to public health, safety or welfare. All lights shall be directed so light is directed downwards and not into the night sky. Lighting shall be directed towards the property. Lighting shall be at a level consistent with the character of the neighborhood.
4. **Hazardous Materials:** Neither fire nor any storage of explosives, flammable materials, or other hazardous substances shall be permitted which might significantly endanger persons or property.

### **3.11 Water and Wastewater**

No Zoning Permit under this Bylaw shall be issued for land development involving the alteration, expansion or installation of wastewater and water supply systems until the applicant has adequately demonstrated that such proposed system is in compliance with state water supply and wastewater standards. This may be accomplished where the applicant has obtained a Wastewater System and Potable Water Supply Permit from the Vermont Agency of Natural Resources.

### **3.12 Outdoor Signs**

#### **3.12.1 Purpose**

Unplanned outdoor signs are detrimental to the scenic resources of Bethel considered vital to the community’s economic growth and social culture, are hazardous to highway uses, and can adversely affect property values. For these reasons, it is the purpose of this section to regulate the size, type, number, and location of outdoor signs in the Town.

<b>Allowed Maximum Sign Area by District</b>	
Core Business & Village Districts	32 sq.ft.
Hamlet District	32 sq.ft.
Medium Density District	24 sq.ft.
Rural Development District	24 sq.ft.
Resource Conservation District	15 sq.ft.

#### **3.12.2 Sign Permit Requirement**

Except for signs necessary for public safety and those signs exempted under this section, no person shall construct, erect, display, or change the location or size of an outdoor sign without first obtaining a Zoning Permit from the Administrative Officer.

#### **3.12.3 Existing Signs**

Nothing within this Bylaw shall require any change to signs existing prior to the effective date of this Unified Development Bylaw. Any existing sign, which is removed because the sign no longer advertises the products or services of the establishment, may only be replaced by conforming sign or signs.

#### **3.12.4 Exempt Signs**

The following signs are not regulated under this Bylaw and do not require a Zoning Permit but shall comply with 3.12.5.

1. On premise non-illuminated signs on a lot, which sign shall not exceed two square feet per side whose sole purpose is to provide direction, instruction, or convenience to the public. (E.g., signs identifying restrooms, freight entrances, parking areas, safety, warning, etc.);

2. Temporary signs; provided such sign does not exceed 12 square feet in size and is not displayed for a period exceeding 10 days per year;
3. Temporary signs, provided there is no more than one sign per lot and that such sign does not exceed 4 square feet in area and is not in place more than 6 months;
4. Advertising Flags or banners provided that no more than one such sign or banner is located on the lot or per establishment and does not exceed 12 square feet in area.;
5. No trespassing or posted land signs.
6. See Selectboard policy on political signs.

### **3.12.5 General Standards for All Outdoor Signs**

1. All signs, unless official state or town highway traffic control or informational signs, shall be located outside of road right-of-way, unless otherwise approved by the Vermont Agency of Transportation or the Town of Bethel;
2. No sign shall be placed so as to prevent clear and unobstructed views of official signs;
3. Illuminated signs shall be lighted so as not to be directed at neighboring properties or public ways. The intensity of lighting shall not be so bright as to adversely affect the neighborhood and users of motor vehicles;
4. No permanent sign shall be erected off-premises or not on the lot where the activity served by the sign is located;
5. No sign shall be illuminated by a neon, flashing, moving, or intermittent generated light;
6. No sign attached to a building shall extend above the roof line more than 4 feet;
7. The height of a free-standing sign shall not be more than 18 feet above grade level;
8. All signs shall be well-constructed and maintained in good repair;
9. No sign shall be erected, attached, or maintained upon any tree or drawn or painted on any rock or other natural feature or upon any utility pole or town sign post.

### **3.12.6 Commercial Sign Standards**

In addition to the standards outlined in 3.12.5, the following shall apply to commercial signs:

1. All signs shall be set back at least one-half of the required setback distance for buildings or equal to the existing setback, if the building is a non-complying structure;
2. Projecting signs shall be at least 8 feet above the ground level and not project more than one-half the width of a public walkway;
3. There shall be no more than two affixed, projecting, or freestanding signs per establishment;
4. Sign area maximum per lot shall be determined by multiplying the building front width in feet times 0.8 feet and shall not exceed the following limits for the district in which it is located;
5. Multiple businesses on one lot shall not exceed twice the maximum for the district.

### **3.12.7 Home Occupation Signs**

Home occupations may have one sign not to exceed 4 square feet in size. Two home occupations within the same dwelling may have a total sign area not more than 6 square feet.

### **3.13 Ponds or Impoundments**

No dug pond, impoundment, or inground pool capable of holding less than 35,000 cubic feet of water shall be constructed, enlarged, reconstructed or otherwise enlarged unless approval has been granted by the Administrative Officer. No pond or impoundment capable of holding more than 35,000 cubic feet of water shall be constructed, enlarged, reconstructed, or otherwise enlarged unless approval has been granted by the DRB. In order to issue an approval, the DRB must find that the proposed design and construction plans meets acceptable engineering standards and practices as certified by a Vermont licensed engineer. Applications for permits shall include information regarding the location and dimension of the pond or impoundment, approximate size in cubic feet, and operational procedures.

Any pond or impoundment shall meet with the setback distances for the district in which it is located and not interfere with drainage from town highways. No pond or impoundment shall be constructed that interferes with a surface water or wetland unless a state permit has been granted or the applicant has received a written state conformation that no state permit is needed. All inground pools must meet setbacks and be fenced.

### **3.14 Affordable Housing**

Incentives for the purpose of encouraging affordable housing are found under sections 8.1.

### **3.15 Residential Care or Group Homes**

A residential care or group home serving not more than twelve adults, unrelated persons with disabilities shall be considered by right to constitute a single-family residence, provided that no such home shall be located within 1000 feet of another such home.

### **3.16 Accessory Structures**

#### **3.16.1 Accessory Dwelling Units**

Notwithstanding other requirements of this Bylaw and pursuant to 24 VSA Section 4412 (E) & (F), accessory dwelling units are enabled in all Districts where single-unit dwellings are permitted provided the property provides as part of its application that it has sufficient wastewater capacity or permits for such.

#### **3.16.2 Detached House**

A detached house (e.g., caretaker's house, see definition) on the same lot as the principal residence is permitted provided that the living area does not exceed 1500 square feet or 50% of the principal residence, whichever is greater. A detached house shall not be subdivided from the lot containing the principal residence unless the resulting lots meet with area and dimensional standards for the district. No detached house may be constructed on a lot unless the lot area exceeds twice the minimum lot area for the district in which the principal residence is located.

##### **3.16.2.1 Other Accessory Structures**

All principal uses or structures imply the inclusion of appropriate accessory structures that are customarily incidental and subordinate to the principal use or structure and located on the same lot. All accessory structures, except fences, walls, driveways and parking areas shall conform to lot setback requirements.

##### **3.16.2.2 Short-Term Rentals**

A short-term rental is a dwelling unit or part thereof rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days at a time and for more than 14 days cumulative per calendar year. In addition to any rules that apply to the dwelling unit, the following also apply:



1. No recreational vehicle, tent or other temporary structure may be used as a short-term rental outside of a trailer park or campground.
2. Occupancy shall be restricted to two adults per bedroom.
3. All associated parking shall be in compliance with Section 3.7 of this bylaw.
4. A notice to renters of house rules pertaining to parking, rubbish, noise, etc. shall be visibly displayed in the rental.
5. Name, address and contact information of responsible person shall be posted within the rental and that person shall be able to respond 24 hours per day 7 days a week when space is rented.
6. Application must include a copy of the “Short Term Rental Safety, Health and Financial Obligations” found at the Vermont Department of Health, that they have previously submitted to the State of Vermont.
7. If not connected to Town of Bethel Sewer, owner must adhere to the Vermont Department of Environmental Conservations regulations, proving the system is adequate for additional load created by the Short-Term Rental’s maximum occupancy.

### **3.17 Equal Treatment of Housing**

This Bylaw shall not have the effect of excluding manufactured homes, modular housing, or other forms of housing except as they may be excluded by the same terms and conditions of conventional housing. This Bylaw shall not have the effect of excluding manufactured home parks, as defined in accordance with current Vermont statutes.

### **3.18 Child Care Facilities**

A state registered child care facility or licensed family care home serving six or fewer full-time and four part-time children shall be considered by right to constitute an accessory use to a dwelling and is exempt from local review. Notwithstanding, a certified letter of approval from the Vermont Department of Children & Families shall be filed with the Administrative Officer.

A state registered child care facility or licensed family care home serving more than six full-time and/or four part-time children shall require Conditional Use Approval and Site Plan Approval from the DRB.

A child care facility or family care home is defined under 33 VSA Section 3511 (2) & (7).

### **3.19 Wetlands**

Proposals for a land development within 100 feet of a mapped wetland (as defined by the State of Vermont), shall be designed to provide for adequate setbacks, which shall be determined in consultation with the Vermont Agency of Natural Resources using standard wetland values. Applicants may be required to hire a qualified person to perform a wetland delineation in accordance with Vermont standards.

### **3.20 Buffer Strips**

In cases where a commercial or industrial use abuts a residential district, with the exception of access points or drives, a buffer strip of land not less than 10 feet in depth shall be maintained along the common boundary. The buffer shall be used and maintained only as fence or area for planting trees, shrubs, flowers, or similar property enhancements to mitigate undue adverse visual impacts which would exist between dissimilar uses.

### **3.21 Stream Buffer Requirements**

Except for those structures associated with bridges, culverts and roads, no structures shall be allowed within 50 feet of the top of the bank of designated permanent streams, except those that by their nature must be located near streams. No ground disturbance is allowed within 35 feet, excepting that incidental to bridge or culvert construction, or permitted bank stabilization. Such work may require a permit under 4.12.3.2.

This provision shall apply to all rivers and streams that appear as permanent streams on the ANR Atlas. In cases where the applicant believes the map is in error, the AO may make such a determination after a site visit and consultation with ANR.

### **3.22 Emergency Services**

Land development shall be designed to ensure access for emergency services. Driveways shall be designed to safely accommodate emergency vehicles. Fire ponds and/or dry hydrants will be required when determined necessary for water supply by the Bethel Fire Department.

### **3.23 Ancient Roads and Trails**

Development shall not result in an undue adverse impact on ancient roads or trails that appear on the highway map certified annually to VTrans by the Selectboard.

### **3.24 Road and Access Requirements**

All new roads, rights-of-way or access points must be designed as specified in the Bethel Road Specifications (A-76 standards)

### **3.25 Salvage Yards**

All Salvage Yards are required to obtain a license to operate, establish or maintain a Salvage Yard from the State of Vermont, and must meet ANR regulatory standards. The procedures for obtaining a Salvage Yard license from the State of Vermont are those specified in 24 V.S.A. §§2241 - 2283, as from time to time amended.

Salvage Yards must also receive and keep current a municipally issued “Certificate of Approved Location” from the DRB. All Salvage Yards are required to provide year-round screening from view from public roads. Screening may be achieved by a fence, berm, vegetation or a combination of the three. Any request of a “Certificate of Approved Location” will be sent to the DRB.

### **3.26 Steep Slopes**

It is the purpose of this section to prevent harm to Town soils and waters that could result from environmentally unsound development on slopes in excess of 25%.

Unless otherwise exempt from a Zoning Permit, no building, structure, or use of land subject to regulation under this Bylaw shall be permitted on slopes exceeding 25% gradient until Conditional Use Review and Approval by the DRB. The DRB in rendering approval must find that the proposed building, structure, shall minimize soil erosion, and not result in a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. To help satisfy this requirement, applicants shall provide an erosion control plan and agree to adhere to it.

## 4. Districts and Their Uses

### 4.1 Establishment of Zoning Districts and Map

#### 4.1.1 Base Zoning Districts

For the purposes of this Bylaw, the Town of Bethel is hereby divided into the following base zoning districts as shown on the official zoning map:

- Core Business District CBD
- Village District VD
- Hamlet District HD
- Medium Density Residential District MDRD
- Rural District RD
- Resource Conservation District RCD

#### 4.1.2 Overlay Districts

For the purposes of this Bylaw, the following Overlay Districts are established:

- Flood Hazard Overlay District FHD
- River Corridor Overlay District RCD
- Well Head Protection Overlay District WHPD

Development that takes place within the area covered by an Overlay District is also subject to the requirements of the underlying zoning district in which it is located.

The areas and boundaries of the Town's Overlay Districts are established on Bethel's zoning maps. These maps, together with interpretative guidelines and all amendments thereto, are hereby made a part of this Bylaw. The FHD shall apply to all lands in the Town of Bethel, Vermont, identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 VSA Sections 752 & 753, which are hereby adopted by reference and declared to be part of these regulations.

#### 4.1.3 Official Zoning Map

The location and boundaries of base zoning districts are established as shown on the Official Zoning Map maintained at the Bethel Municipal building. The Official Zoning

Map, together with interpretive guidelines and all amendments thereto, is hereby made a part of this Bylaw. All amendments to the Official Zoning Map are subject to the provisions of this Bylaw regarding amendments.

## **4.2 Boundaries and Purposes of Districts**

Districts are created to further the purposes established for them in the Town Plan. The areas and boundaries of the districts are established as described below and shown on the Official Zoning District Map for the Town of Bethel signed by the Selectboard upon adoption and stamped with the seal of the Town Clerk, which is hereby designated and made a part of this Bylaw. This map shall remain on file with the Town and smaller copies may be made.

## **4.3 Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Base Map or Overlay District maps, the location of such boundaries shall be determined by the Administrative Officer (AO). The decisions of the Administrative Officer may be appealed by the applicant or interested parties to the DRB for action. The Administrative Officer and DRB shall use the following guidelines to assist them in making a determination:

1. Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines;
2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines;
3. Boundaries indicated as following shorelines shall be construed as the normal mean water level;
4. Boundaries indicated as parallel to or extensions of features in (1) through (3) above shall be so construed;
5. Where circumstances are not covered by (1) through (4) above, the AO shall interpret the district boundaries subject to DRB review.

### **4.3.1 Interpretation within the Flood Hazard and River Corridor Overlay District**

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the AO, a Letter of Map Amendment from FEMA shall constitute proof.

If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the AO. If the applicant disagrees with the determination made by the AO, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

#### **4.4 Use Categories**

For the purpose of establishing permitted and conditional uses within the zoning districts, the following categories of use are designated and defined:

**Single and two-unit Dwelling:** see definition.

**Multi-Unit Dwelling:** see definition

**Apartment Building:** see definition

**Mobile home park:** See definition

**Boarding House:** See definition

**Town Center Commercial:** Any use of land or structures for the primary purpose of buying or selling goods where the goods are primarily contained inside a primary structure. Examples: retail shops, general store.

**Roadside Commercial:** Any use of land or structures for the purpose of buying or selling goods which are commonly displayed or sold outside a primary structure. Examples: mobile home sales lot, car dealership, lumber yard.

**Individual Service:** Any use of land or structures for the purpose of providing a service which customarily involves the presence of no more than a few individuals at the same time. Examples: real estate offices, hairdressers, repair shops, guesthouse.

**Commercial Group Service:** Any use of land or structures for the purpose of providing a service involving the presence of a number of individuals at one time. Examples: motels, hotels, theaters, restaurants.

**Community Service:** Any use of land or structures for the purpose of providing or conducting educational or religious services. Examples: schools (public and private), churches.

**Light Industrial:** The processing, assembly, distribution or packaging of natural or man-made products where such activity results in no substantial off-site impacts, such as, but not limited to noise, vibration, air pollution, fire hazard or noxious emission. All such activity and storage of raw or finished products are enclosed in a building or are screened from the abutting properties and public rights of way. Such uses include, but are not limited to, the following: cabinetry or woodworking shop, electronics high-tech manufacturing or assembly, machine shop, sewing, printing, research and testing laboratory, and similar uses.

**Heavy Industrial:** The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in substantial off-site impacts such as, but not limited to noise, vibration, air pollution, fire hazard or noxious emission. All such activity and storage of raw or unfinished products are not enclosed inside a building or screened from the abutting properties and public rights-of-way. Such uses include, but are not limited to, the following: lumber mills, junk yards, truck terminals, concrete, asphalt or brick plants, quarries, bulk fuel storage facilities, foundry, and similar uses.

**Commercial Outdoor Recreation:** Any use of land or structures for the provision of private outdoor recreational services that do not involve the construction of substantial structures. Examples: travel trailer parks, campgrounds, tennis courts, golf courses.

**Agriculture:** The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural and orchard crops; or the raising, feeding, or management of livestock, poultry, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site storage, preparation, production and sale of fuel or power from agricultural products or wastes principally produced on the farm; or the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or a structure 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 Vermont Statutes 10 VSA § 6001 (22), but excluding a dwelling for human habitation. A person shall notify the Administrative Officer 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 an agricultural use of land or for a farm structure shall be required.

**Agricultural Commercial** - Any use of land or structures taking place on an owner-occupied working farm that are beyond those exempted as an agricultural use or home occupation, including the on-site storage, preparation, processing, eating, and/or sale of agricultural products, not principally produced on the farm, provided more than 50% of total annual sales are from qualifying products principally produced on the farm; and educational or recreational or social activities such as special events, festivals, crop-based seasonal events, ancillary catering, educational experiences, agricultural technical tours, garden/nursery tours, historical agricultural exhibits, ranch/farm tours, and winery/vineyard tours.

**Municipal:** Any use of land or structures for the purpose of providing municipal or quasi-municipal services. Examples: public utility sub-stations, municipal buildings, public parks, recreational facilities, libraries, cemeteries.

**Short-term Rentals:** A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days at a time and for more than 14 days cumulative per calendar year.

## **4.5 Dimensional Standards, Permitted and Conditional Uses by District**

Various uses requiring an Administrative Permit, or Conditional Use Approval in addition to a permit, are listed below for each district. If a use is not listed, or exempted under 2.2, it is prohibited. Dimensional requirements must be met unless a waiver is granted. Waivers cannot be granted on types of use, see Section 8.1 Waivers and Variances. Means for measurements are covered in Chapter 9 of this document.

### **4.6 Core Business District - "CBD"**

#### **4.6.1 District Description**

The Core Business District includes areas historically considered to be the Bethel's primary commercial and civic center. It is a small subset of the entire village, marked by multi-story, interconnected buildings with storefronts on the first floor and mixed-use commercial on the upper floors.

#### **4.6.2 District Purpose**

The purpose of the Core Business District is to provide a commercial center in the Town which will permit a broad range of mixed-use development including primary retail and personal service shops, professional and governmental offices, and supportive, compatible commercial uses. Residential uses which add interest and vitality to the area and accommodate those who desire high-density housing is encouraged.

#### **4.6.3 Permitted Uses in the Core Business District**

The following uses may be permitted upon issuance of an Administrative Permit by the Administrative Officer, except on slopes over 25% and/or within the Flood Hazard Overlay, which shall require conditional use approval first:

1. Single- and Two-Unit Dwellings
2. Multi-unit Dwelling
3. Town Center Commercial\*
4. Individual Service\*



5. Accessory uses or structures\*\*
6. Home Occupations (see Section 3.9)
7. Accessory Apartments
8. Detached Housing (see Section 3.16.2)
9. Outdoor Signs (see Section 3.12)
10. Temporary Uses or Structures (see Section 3.4)
11. Apartment Buildings\*
12. Short-term Rental

\*Also requires site plan approval from the DRB

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

#### **4.6.4 Conditional Uses in the Core Business District**

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Commercial Group Service
2. Community Service
3. Municipal
4. Child Care Facilities (see Section 3.18)
5. Special Public Uses (see Section 2.4)
6. Roadside Commercial

#### **4.6.5 Land, Area and Structural Requirements in the CBD**

The following requirements apply to all development within the Core Business District unless specifically exempted in section 2.2.

1. Lot Area Minimum 5,000 square feet for all uses
2. Rear and Side Setback Minimum: None
3. Front Setback Minimum: None.
4. Off-Street Parking Requirements (see Section 3.7)

## **4.7 Village District - "VD"**

### **4.7.1 District description**

This area includes the areas of Bethel's Village which surround the Core Business District. This district includes a wide range of uses, but residential is the more prevalent use. Because there are areas with access to municipal sewer and water, density is high.

### **4.7.2 District Purpose**

The purpose of this district is to support and maintain the role of the Village as the focus of many social and economic activities in the community and provide for high-density residential, commercial, industrial, municipal, and other compatible development that serves the needs of the Town as a whole.

### **4.7.3 Permitted Uses in the Village District**

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. One- and Two-Unit Dwellings
2. Multi-unit Dwelling
3. Accessory uses or structures\*\*
4. Home Occupations (see Section 3.9)
5. Accessory Apartments (see Section 3.16.1)
6. Detached Housing (see Section 3.16.2)
7. Boarding House\*
8. Outdoor Signs (see Section 3.12)
9. Temporary Uses or Structures (see Section 3.4)
10. Short-term Rental

\*Also requires site plan approval from the DRB

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

### **4.7.4 Conditional Uses in the Village District**

The following uses are permitted upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the

Administrative Officer:

1. Town Center Commercial
2. Light Industrial
3. Individual Service
4. Community Service
5. Municipal
6. Child Care Facilities (see Section 3.18)
7. Special Public Uses (see Section 2.4)
8. Roadside Commercial
9. Heavy Industrial
10. Apartment Building
11. Manufactured Home Park

#### **4.7.5 Land, Area and Structural Requirements in the Village District**

The following requirements apply to all development within the Village District unless specifically exempted in section 2.3.

1. Lot Area Minimum 10,000 square feet for the first two dwelling units (not including an accessory dwelling unit. A multi-unit dwelling, apartment buildings, and boarding houses require a 1,000 additional square feet per unit. Commercial uses have a 20,000 square foot minimum lot.
2. Rear and Side Setback Minimum: 15 feet
3. Front Setback Minimum: 50 feet from center of traveled way.
4. Off-Street Parking Requirements (see Section 3.7)
5. All buildings shall have two stories above grade with functional floor areas.
6. Footprints shall not exceed 4,000 square feet, except for Light/Heavy Industrial

### **4.8 Hamlet Districts - "HAM"**

#### **4.8.1 District Description**

Bethel's Hamlet Districts include the village of East Bethel and the area around Locust Creek (Junction of Route 107 and 12). These areas are mixed use, but primarily residential in nature.

#### **4.8.2 District Purpose**

The purpose of the Hamlet Districts is to provide for small areas of mixed-use development outside of the Village Center with a moderate density and those limited commercial operations that contribute to and support residential communities.

#### **4.8.3 Permitted Uses in the Hamlet Districts**

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. One- and Two-unit Dwellings
2. Multi-unit Dwelling
3. Accessory uses or structures\*\*
4. Home Occupations (see Section 3.9)
5. Accessory Apartments (see Section 3.16.1)
6. Detached Housing (see Section 3.16.2)
7. Outdoor Signs (see Section 3.12)
8. Temporary Uses or Structures (see Section 3.4)

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

#### **4.8.4 Conditional Uses in the Hamlet Districts**

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Town Center Commercial
2. Individual Service
3. Community Service
4. Commercial Group Service
5. Light Industrial
6. Ponds or Impoundments (see Section 3.13)
7. Child Care Facilities (see Section 3.18)
8. Special Public Uses (see Section 2.4)
9. Extraction of Soil, Minerals, Sand, or Gravel (see Section 6.10.2)
10. Planned Unit Development
11. Short-term Rental
12. Roadside Commercial
13. Boarding House
14. Manufactured Home Park

#### **4.8.5 Land, Area and Structural Requirements in the Hamlet Districts**

The following requirements apply to all development within the Hamlet Districts unless specifically exempted in section 2.3.

1. Lot Area Minimum 20,000 square feet per unit for multiple family, 20,000 square feet for one and two family; one acre for all other uses, except light industrial which is 2 acres.
2. Rear and Side Setback Minimum: 25 feet
3. Front Setback Minimum: 50 feet from center of traveled way.
4. Off-Street Parking Requirements (see Section 3.7)
5. Footprints shall not exceed 4,000 square feet, except for Light Industrial and Heavy Industrial use

#### **4.9 Medium Density Development District - "MDD"**

##### **4.9.1 District Description**

The Medium Density Development District includes Town lands characterized by cleared and wooded areas with generally good soils and shallow slopes, direct access to year-round public roads, and availability of private utilities such as electricity and telephone.

##### **4.9.2 District Purpose**

The purpose of the Medium Density Development District is to maintain the residential/agricultural character of Town lands outside the village areas by providing for agricultural uses and residential development in densities compatible with agricultural uses and the capability of the lands to support such development. Additionally, allowance is made for uses of a limited nature that enhance the quality of residential/agricultural communities through provision of useful services.

##### **4.9.3 Permitted Uses within the MDD**

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. One- and Two-Unit Dwellings
2. Multi-unit Dwelling
3. Accessory uses or structures\*\*
4. Home Occupations (see Section 3.9)

5. Accessory Dwellings (see Section 3.16.1)
6. Detached Housing (see Section 3.16.2)
7. Outdoor Signs (see Section 3.12)
8. Temporary Uses or Structures (see Section 3.4)
9. Short-term Rental

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

#### **4.9.4 Conditional Uses within the MDD**

The following uses are permitted upon granting Conditional Use Approval by the Development Review Board and the issuance of an Administrative Permit by the Administrative Officer:

1. Individual Service
2. Commercial Outdoor Recreation
3. Commercial Group Service
4. Ponds or Impoundments (see Section 3.13)
5. Child Care Facilities (see Section 3.18)
6. Special Public Uses (see Section 2.4)
7. Extraction of Soil, Minerals, Sand, or Gravel (see Section 6.10.2)
8. Planned Unit Development
9. Manufactured Home Parks

#### **4.9.5 Land, Area and Structural Requirements for the MDD**

1. Lot Area Minimum 4 acres for all uses except for multi-unit dwellings which require 2 acres per unit (these lot sizes may be waived under 8.1 as long as the same density is maintained)
2. Rear and Side Setback Minimum: 50 feet for all uses
3. Front Setback Minimum: 75 feet from center of the traveled way
4. Off-Street Parking Requirements (see Section 3.7)

### **4.10 Rural Development District - "RD"**

#### **4.10.1 District Description**

The purpose of the Rural Development District is to allow for low-density residential development compatible with agricultural and conservation uses in areas physically remote from Bethel Village. Restrictive requirements in this district are intended to encourage development of areas closer to Bethel Village.

#### **4.10.2 District Purpose**

Lands in the Rural Development District possess generally the same characteristics as those lands in the Medium Density Development District with the added characteristic of being physically remote from Bethel Village. Because of this remoteness, Town services such as road maintenance and school busing, though provided, are provided on a more limited and intermittent basis than in the Medium Density Development District.

#### **4.10.3 Permitted Uses in the Rural District**

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. One- and Two-Unit Dwellings
2. Home Occupations (see Section 3.9)
3. Outdoor Signs (see Section 3.12)
4. Temporary Uses or Structures (see Section 3.4)
5. Short-term Rental

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

#### **4.10.4 Conditional Uses in the Rural District**

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Individual Service
2. Multiple-unit Dwelling
3. Commercial Outdoor Recreation
4. Ponds or Impoundments (see Section 3.13)
5. Child Care Facilities (see Section 3.18)
6. Special Public Uses (see Section 2.4)
7. Extraction of Soil, Minerals, Sand, or Gravel (see Section 6.10.2)
8. Planned Unit Development
9. Accessory uses or structures
10. Accessory Dwellings (see Section 3.16.1)
11. Detached Housing (see Section 3.16.2)

#### **4.10.5 Land, Area and Structural Requirements in the Rural District**

1. Lot Area Minimum 10 acres for all uses, unless waived under 8.1.2
2. Rear and Side Setback Minimum: 50 feet.
3. Front Setback: 50 feet.
4. Off Street Parking Requirements (see Section 3.7)

## **4.11 Resource Conservation District - "RCD"**

### **4.11.1 District Description**

The Resource Conservation District includes town lands characterized as generally forested with shallow soils and steep slopes. These lands lack direct access to year-round public roads and utilities and public services are commonly unavailable.

### **4.11.2 District Purpose**

The purpose of the Resource Conservation District is to protect the natural resource value of town lands which are essentially undeveloped. These lands include regional forest blocks identified as critical for mitigating climate change through carbon storage and sequestration. They also provide significant recharge to the ground and surface water supplies of the Town and region, increase flood resilience, are important for wildlife and wildlife corridor, for irreplaceable recreational and scenic areas, and for maintaining the potential for commercial logging and firewood.

### **4.11.3 Permitted Uses in the RCD**

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer.

1. One- and Two-Unit Dwellings
2. Home Occupations (see Section 3.9)
3. Accessory Apartments\*\* (see Section 3.16.1)
4. Outdoor Signs (see Section 3.12)
5. Temporary Uses or Structures (see Section 3.4)
6. Short-term Rental

\*\* Accessory uses or structures require the same permitting process as the use/structure they are accessory to.

### **4.11.4 Conditional Uses in the RCD**

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Individual Service
2. Multi-unit Dwelling
3. Commercial Outdoor Recreation
4. Ponds or Impoundments (see Section 3.13)
5. Child Care Facilities (see Section 3.18)
6. Special Public Uses (see Section 2.4)
7. Extraction of Soil, Minerals, Sand, or Gravel (see Section 6.10.2)



8. Planned Unit Development
9. Accessory uses or structures
10. Detached Housing (see Section 3.16.2)

#### **4.11.5 Land, Area and Structural Requirements in the RCD**

1. Lot Area Minimum 20 acres for all uses unless waived under 8.1.2
2. Rear and Side Setback Minimum: 50 feet
3. Front Setback Minimum: 75 feet from center of traveled way
4. Off Street Parking Requirements: See Section 3.7
5. See Section 7.8.1 (#13) Subdivision Regulations for mandatory conservation restrictions in this district
6. As a general standard, a structure cannot break the silhouette of ridgelines, as seen from a public highway.

#### **4.12 Floodplain Overlay District - "FLD"**

Adjacent to branches of the White River and its tributaries are lands subject to periodic flooding. Floodplains are unsuitable for development because of the high loss potential for life and property as well as the limited ability of septic systems to perform adequately during periods of high water.

It is the purpose of this district to:

1. Implement the goals, policies, and recommendations in the current municipal plan;
2. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
3. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor;
4. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Bethel, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

#### **4.12.1 Other Provisions**

##### **4.12.1.1 Precedence of Bylaw**

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

##### **4.12.1.2 Validity and Severability**

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

##### **4.12.1.3 Warning of Disclaimer of Liability**

This section of the Bethel Unified Bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of Bethel, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

#### **4.12.2 Lands to Which the Floodplain Overlay District Regulations Apply**

##### **4.12.2.1 Regulated Flood Hazard Areas**

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called “hazard areas”) in the Town of Bethel, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

1. The **River Corridors** as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field- based assessments which are hereby adopted by reference.
2. The **Special Flood Hazard Area** in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

**4.12.2.2 Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas**

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

**4.12.3 Development Review in Hazard Areas**

**4.12.3.1 Permit**

A permit is required from the Administrative Officer for all development in all areas defined in Section 4.12.2.1. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the AO. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 4.12.3 and 4.12.4. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

Per 24 VSA § 4424 (d), a copy of the application must be delivered to the Regional Floodplain Manager of the Department of Environmental Conservation Watershed Management Division; Rivers Program. The Municipality must wait 30 days from date of email or mail notification to the State for any response. The Municipality will consider the State response, but it shall not be binding on the Municipality.

Activity	Hazard Areas		
	Special Flood Hazard Area	Floodway	River Corridors
P = Permitted C = Conditional Use X = Prohibited E = Exempt			
New Structures	C/X	X	C
Storage	X	X	C
Improvements to Existing Structures	P, C	C	C
Small Accessory Structures	P	X	P
At Grade Parking	P	C	C
Replacement Water Supply or Septic Systems	C	C	C
Fill as needed to Elevate Existing Structures	C	C	C
Fill	X	X	C
Road Maintenance	E	E	E
Road Improvements	C	C	C

Bridges and Culverts	C	C	C
Channel Management	C	C	C
Recreational Vehicles	P	P	E
Open Space, Recreation	E	E	E
Forestry	E	E	E
Agriculture	E	E	E

#### 4.12.3.2 Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway or in the River Corridors outside of the Special Flood Hazard Area, and meeting the Development Standards in Section 4.12.4, require only an administrative permit from the AO:

1. Non-substantial improvements and repairs costing more than the equivalent of \$500 in time and materials for the year;
2. New or replacement storage tanks for existing structures;
3. Accessory structures, poles and fences that do not obstruct flood flows;
4. Public Utilities;
5. Development related to on-site septic or water supply systems;
6. At-grade parking for existing buildings;
7. Channel management activities, public projects, or replacement bridges and culverts which are functionally dependent on-stream access or stream crossing and have an ANR Stream Alteration Permit, if required by ANR.

#### 4.12.3.3 Prohibited Development in-Flood Hazard Area

1. New residential or non-residential structures (including the placement of manufactured homes) in the Special Flood Hazard Area outside of the Village District;
2. Use and storage of hazardous or radioactive material in the Special Flood Hazard Area;
3. Salvage yards;
4. New net fill except as necessary to elevate structures above the base flood elevation;
5. Accessory structures in the floodway;

6. Critical facilities are prohibited in all hazard areas including the 0.2% annual chance area (500-year flood zone), and;
7. New encroachments within the regulatory floodway, except for floodplain restoration projects; channel management activities; health and safety measures; public utilities; and minor improvements to existing structures or relating to bridges, culverts, roads and;
8. All development not exempted, permitted, or conditionally permitted.

#### **4.12.3.4 Conditional Use Review**

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the AO for the following proposed development:

1. New residential or non-residential structures (including the placement of manufactured homes) in the Village District;
2. Substantial improvement, replacement, elevation, relocation, or flood proofing of existing structures;
3. Any increase in footprint to existing structures in the floodway;
4. Excavation or the creation of a pond;
5. Improvements to existing roads in the special flood hazard area;
6. New development in the floodway which is functionally dependent on-stream access or stream crossing (Floodplain restoration projects; channel management activities; health and safety measures; public utilities; additions to existing structures, or relating to new bridges, culverts, roads, or public projects);
7. Development in the River Corridor outside of the Special Flood Hazard Area not otherwise exempted or permitted;
8. Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet;
9. Accessory structures in the River Corridors, of 500 square feet or less, that represent a minimal investment.

#### **4.12.3.5 Exempted Activities**

1. The removal of a building or other structure in whole or in part; (Please note that repair or removal of a building may affect insurance or grant eligibility);

2. Emergency repairs and improvements;
3. Maintenance of existing roads and storm water drainage.

#### **4.12.3.6 Variances**

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section 9.2.

1. A variance for development within the River Corridors may be allowed if, based on a review by the Development Review Board, and that the criteria listed in section 4.12.4.3 and 24 VSA § 4424 are met.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### **4.12.3.7 Nonconforming Structures and Uses**

The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section 4.12.4 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a conforming location on the parcel. If it must still be constructed in a non-conforming location it shall be treated as a variance and subject to that process.
3. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program, unless designed and constructed as per section 4.12.4.1 (7)(b);
4. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and

5. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

#### **4.12.4 Development Standards in the Flood Hazard Overlay District**

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

##### **4.12.4.1 Special Flood Hazard Area**

1. All development shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage, including the use of backflow preventers;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 - A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.

#### **Flood Hazard Zones**

Each of the designations listed in this section (A, AE, AH, and A1-A30) are all designations set by FEMA on their Flood Insurance Rate Maps. Some towns have only A zones, others have more. The Bethel AO can help you determine what FH zone you're in, or if you're in the FHA at all.

3. New, substantially improved or replacement primary structures in the special flood hazard area must not increase base flood elevations or flood velocities. Such development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachments, will not increase the base flood elevation more than 0.1 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer; or,
  - a. The proposal provides compensatory storage for floodwater (in the same reach and at elevations up to one foot above the base flood elevation) to offset the impacts of the proposal. A volumetric analysis and supporting data must be provided by the applicant and certified by a registered professional engineer; or,
  - b. The volumetric analysis will be waived for replacement or relocated primary structures where the proposal indicates no increase in the structure's footprint; or for new structures proposing a lowest floor elevation of at least two feet above the base flood elevation and open foundation design and no new fill.
4. New, substantially improved, rebuilt or relocated structures in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate. Though not required, significant flood insurance savings may be obtained by going beyond this standard (for example by building to at least 2 feet above BFE) and owners should consult their insurance agents before construction.
5. New or substantially improved non-residential structures shall:
  - a. Meet the standards in 4.12.4.1 (3); or,
  - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so at least that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
6. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
7. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall:

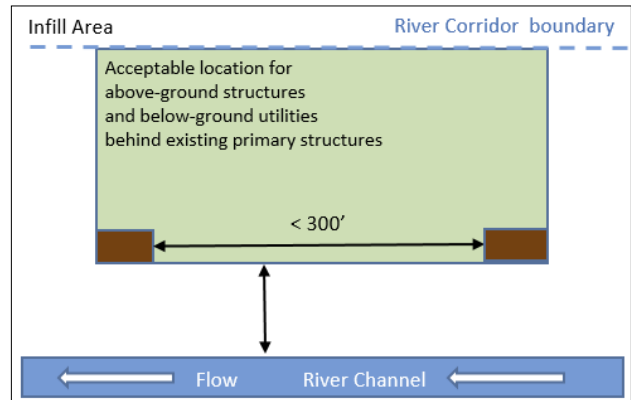


- a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
8. Recreational vehicles must be fully licensed and ready for highway use.
  9. A small accessory structure of 100 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 4.12.4.1 (6) (above).
  10. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  11. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  12. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  13. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
  14. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
  15. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
  16. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number

specified on the community’s FIRM, or at least two feet if no depth number is specified.

#### 4.12.4.2 Floodway Areas

1. New encroachments within the regulatory floodway, except for minor improvement to existing structures or relating to bridges, culverts, roads, stabilization projects, access to water, public utilities or health and safety measures, are prohibited.
2. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:



- a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
- b. Not increase flood velocities; and
- c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

3. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
4. For any proposed encroachment within the regulatory floodway where hydrologic and hydraulic analyses are required, the applicant should provide a FEMA Conditional Letter of Map Revision (CLOMR) as proof to demonstrate that the proposed activity, if completed as proposed, will not result in any increase in flood levels (0.00’) during the occurrence of the base flood.

#### 4.12.4.3 River Corridors (and outside of the Special Flood Hazard Area)

1. New structures in this area are at risk from flood damage. In order to not increase flood risk and channel management, primary structures shall not be located closer to the top of bank than either the adjacent existing primary structures (within a gap that is no more than 300 feet), or 50 feet from top of bank, whichever is less;

2. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
3. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
4. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events;
5. Bridge, culvert and channel management projects are allowed as authorized by a Stream Alteration Permit from the Agency of Natural Resources. Floodway standards may apply separately.

#### **4.13 Wellhead Protection Overlay District**

For the purposes of maintaining a quality source of public water to the citizens of Bethel, accommodating development surrounding the wellhead, protecting the Town's investment in the water system and implementing the Town's Source Protection Plan, a Wellhead Protection District is created.

All land development, except as otherwise exempted or excluded, within the Wellhead Protection District, shall be subject to Conditional Use Review to ensure adequate protection of the resource. In considering an application, the DRB shall evaluate the potential impact of the proposed use on the resource. No Zoning Permit shall be issued unless all approvals required under this section are first obtained by the Applicant.

Due to the relatively high risk of permanent groundwater contamination, the following uses or activities are prohibited within the Wellhead Protection District:

1. commercial storage of liquid petroleum products;
2. commercial salvage yards;
3. manufacture, use or storage of toxic chemicals exceeding 50 gallons or 250 pounds of dry weight;
4. uncontained storage of animal manure;
5. landfills or waste transfer stations; and
6. industrial uses that discharge process waste on-site.

Land development that involves or typically requires installation, maintenance, or operation of a subsurface sewage disposal system shall not be permitted unless the DRB first determines that the facility will not adversely affect groundwater quality or contaminate Bethel's public water supplies. To the extent necessary, the Applicant may be required to provide testimony from a qualified hydrologist documenting that the intended development has been planned or engineered so as not result in a high risk of groundwater and surface water pollution.

## 5. Administrative Permits

### 5.1 Administrative Permits

No land development, change in use, or subdivision of land may be commenced within the area affected by this Bylaw without an Administrative Permit being issued by the Administrative Officer, unless the development has been specifically exempted from requiring a permit by state or federal law, or elsewhere in this Bylaw. Applications requiring the issuance of a state potable water supply and wastewater permit shall obtain such prior to the application for a zoning permit.

<p><b>Administrative Permits</b></p> <p>An Administrative Permit is <b>ANY</b> type of permit authorized under this unified bylaw.</p>
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Assuming the application for an Administrative Permit is for a permitted use that does not require site plan or conditional use approval, is in compliance with this Bylaw and is complete, with the correct fee, no hearing will take place on the application and the applicant will have a permit issued to them, which will become valid 15 days after issuance unless appealed. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

### 5.2 Application for Permit

An Application for an Administrative Permit shall be filed with the Administrative Officer on forms approved by the Development Review Board and accompanied by fees set by the Selectboard. In addition to the information requested on the form, additional information may be required such as surveys, site plans, or drawings to enable the Administrator or Development Review Board to adequately review the proposed land development. An application shall not be accepted unless:

1. signed by the applicant (who must be the owner of record);
2. accompanied by the required fees; and
3. completed checklist provided by the Town

Within the Floodplain Overlay District, the following additional requirements apply:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;

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

Upon receipt of a complete application for a substantial improvement or new construction in Special Flood Hazard, floodway or River Corridor Areas the AO shall submit a copy of the application and supporting information to the Regional Floodplain Manager of the Department of Environmental Conservation Watershed Management Division; Rivers Program, in accordance with 24 V.S.A. § 4424. If a hearing is needed on the application, then the hearing shall be scheduled so that comments can be received by the hearing date. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was submitted to the Agency, whichever is sooner.

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

### **5.2.1 Failure to Act**

If the Administrative Officer fails to act (issues or denies an administrative permit or refers the permit application to the DRB) with regard to a complete application for a permit within thirty (30) days, a permit shall be deemed issued on the 31st day.

### **5.2.2 Permits Applied for During Bylaw Amendment Period**

If a public notice for a first public hearing pursuant to subsection 4442(a) of Title 24 is issued under Chapter 117 by the local legislative body with respect to the adoption or amendment of a bylaw, or an amendment to an ordinance adopted under prior enabling laws, the Administrative Officer, for a period of 150 days following that notice shall review any new application filed after the date of the notice under the proposed bylaw or amendment and applicable existing bylaws and ordinances. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted within the 150-day period

shall be reviewed again, at no cost, under the existing bylaws and ordinances upon request of the applicant. Any determination by the Administrative Officer under this section shall be subject to appeal as provided in section 4465 of Title 24 Chapter 117.

### **5.3 Relationship of Administrative Permit to Other Approvals/Permits**

Granting of a permit under this Bylaw does not relieve the applicant of the need for any other local, state or federal permit under other regulations. When other municipal permits, approvals, or authorizations are required by this Bylaw, the Administrator shall notify the applicant of these, and refer the application within 30 days to the appropriate body. The Administrator should coordinate a unified effort on behalf of the municipality in administering the various local development review programs. These include (but are not limited to):

- An Access Permit (curb cut) from the Selectboard if there is a new or modified access onto the property. This is not a permit under this Bylaw but is a prerequisite to most Administrative Permits.
- Conditional Use Approval from the Development Review Board is an approval needed under this Bylaw prior to the issuance of an Administrative Permit for construction if a development involves a conditional use.
- The Administrator shall inform any person subdividing a lot that a state administrative potable water supply and wastewater permit or required statement on the deed is also needed.
- Per 24 VSA § 341 (2) (A), a survey is required for all subdivisions.
- A waiver or variance under this Bylaw may be needed prior to an Administrative Permit if a project does not conform exactly to the requirements of this Bylaw.

The Administrator shall also inform any person applying for municipal permits or authorizations that the person should contact the regional Permit Specialist employed by the Agency of Natural Resources to fill out a Project Review Sheet in order to assure timely action on any related state permits. Nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

### **5.4 Completion or Expiration of Permit Application**

An application for an Administrative Permit will not be considered complete by the Administrative Officer and acted upon until it includes:

1. all required information and fees;
2. any applicable necessary approvals as required by law, including site plan approval, conditional use approval, waiver or variance; and

3. a copy of the DRB approval for any permit for the development of land within the area of special flood hazard area or River Corridor area.

When additional information is requested from the applicant by the Administrative Officer in order to consider the permit application complete, and such information is not presented within 90 days of the request, the application will expire and be deemed rejected.

### **5.5 Approval or Denial of Permit**

Within 30 days of the submission of a completed application per Section 4.4 and 5.4, the Administrative Officer shall either issue or deny the Administrative Permit (or refer the permit application to the DRB for further review). If the permit is denied, the Administrative Officer shall notify the applicant in writing, stating the reasons for denial, and the procedure for appeal. Denials shall be filed in the permit and land records in the same manner as approvals.

If the Administrative Officer fails to act within 30 days, a permit shall be deemed issued on the 31st day.

### **5.6 Effective Date of Administrative Permit and Posting**

Administrative Permits shall not take effect until 15 days after issuance by the Administrative Officer, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal. Each permit or notice of permit issued under this section shall contain a statement of the period of time within which an appeal may be taken.

Within three days following the issuance of a permit, the **Administrative Officer** shall:

1. The Administrative Officer shall deliver a copy of the permit to the Listers of the municipality;
2. The Administrative Officer shall post a copy of the permit at the Town Office until the time for appeal has passed; and

Within three days following the issuance of a permit, the **Applicant** shall post a copy of the notice of permit on a form prescribed by the Development Review Board within view from the public right-of-way most nearly adjacent to the subject property, until the 15-day appeal period has passed, per 24 VSA § 449 (3)(b).



## **5.7 Filing**

After the 15-day appeal period has closed, but within 30 days after an Administrative Permit has been issued, the Administrative Officer shall also deliver the original or a legible copy of the notice of permit to the Town Clerk for recording in the town's land records along with a form that describes:

1. as grantor, the owner of record title to the property at the time the municipal land use permit or notice of violation is issued;
2. as grantee, the municipality issuing the permit, certificate or notice;
3. the municipal or village office where the original, or a true, legible copy of the municipal land use permit may be examined;
4. whether an appeal of such permit, certificate, or notice has been taken; and
5. tax map lot number or other description identifying the lot.

For permits granted within the Floodplain Overlay District the Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this Bylaw;
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation; and
4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

The Town Clerk may charge the applicant for additional recording fees as allowed by law.

The Administrative Officer shall also file a copy of the effective Permit, along with any necessary approvals, conditions, maps or drawings in the permit files in Town Office where full copies of all municipal land use permits are kept.

### **5.7.1 Recording Requirements**

Any Zoning Permit, Notice of Decision for Conditional Use, Site Plan, or Variance, Notice of Violation, local Sewage Permit, or similar instrument or notice of same shall be recorded in the Bethel Land Records as provided for in 24 VSA Section 1154(a). Such records shall be open to inspection. Within 30 days following any of the actions referenced in this section, the Administrative Officer, DRB or Board of Health shall deliver a copy of the respective decision, certificate, or action to the Town Clerk for recording.

### **5.8 Permit Duration**

See section 2.2.4

### **5.9 Appeal of Administrative Officer's actions or Administrative Permit**

See section 9.4 for information on the appeals process.

## **6. Conditional Use and Site Plan Approval**

### **6.1 Conditional Use Approval Needed**

For certain kinds of development (as listed under each district in section 4), Conditional Use Approval by the Development Review Board is required before an Administrative Permit may be granted by the Administrative Officer. As its name implies, Conditional Use Approval will entail written conditions on development in order to achieve certain goals. The Development Review Board must hold at least one warned hearing prior to issuing approval.

If an application is in compliance with this Bylaw and is complete, with the correct fee, at least one hearing will take place on the application, within 30 days, and the applicant will have conditional use approval or denial within 45 days of the close of the last hearing. The Development Review Board must grant or deny the application for conditional use approval within 45 days of the close of its final hearing on the application, or approval will be automatically given on the 46th day. Assuming approval is granted, and not appealed, an Administrative Permit will be issued which will become valid 15 days after issuance unless appealed.

### **6.2 Application for Conditional Use Approval**

Applications for Conditional Use Approval must be made on forms approved by the Development Review Board and given to the Administrative Officer, who shall transmit them to the Development Review Board for action. Applications shall be accompanied by such materials as determined by the Administrative Officer to be necessary for conditional use review by the DRB, and fees determined by the Selectboard. In nondiscretionary matters, the Administrative Officer may determine that the application is not complete and request needed items. The Development Review Board may also request additional items to deem an application complete. When additional information is requested from the applicant by the Administrative Officer or the Development Review Board in order to consider the permit application complete, and such information is not presented within 90 days, the application will be deemed rejected.

### **6.3 Hearing for Conditional Use Approval**

At least one public hearing is required prior to approval of a conditional use. See section 9.1 for proper notice requirements.

## **6.4 Provision for Independent Consultants**

To assist the Development Review Board in its review of technical issues in applications under this section, it may, after consultation with the applicant, retain independent consultants and require the applicant to pay the reasonable cost of their services. Any final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

## **6.5 Approval or Denial**

The Development Review Board must grant or deny the application for conditional use approval in writing within 45 days of the close of its final hearing on the application, or approval will be automatically given on the 46th day. Any approval or denial shall contain written findings of fact setting forth reasons for approval or denial, list any conditions, and address each of the standards relevant to the proposed development. Copies of the decision approving or denying the conditional use will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

Conditional Use Approval is not a permit to construct. An Administrative Permit is still needed and the Conditional Use Approval shall be attached to the application for an Administrative Permit for the property seeking approval.

## **6.6 Expiration of Approval for Conditional Use Approval**

Any conditional use approval granted under this Bylaw shall expire 1 year from the date of the written decision granting such approval unless an Administrative Permit has been issued by the Administrative Officer for the approved project.

## **6.7 Appeal for Conditional Use Approval**

The approval or denial of a conditional use approval by the Development Review Board may be appealed to the Environmental Court in a manner as specified in section 4471 of the Act. See section 9.4.2 for further details on appeals.

## **6.8 Conditional Use Criteria**

The purpose of this conditional use review is to ensure compliance with standards addressing the potential impacts of development on adjoining properties and town facilities and services to thereby avoid or mitigate adverse impacts of that development.

### 6.8.1 Application for Conditional Use Approval

Every applicant for a Zoning Permit for conditional use plan approval shall submit along with the permit application two sets of the site plan maps and supporting data sufficient to demonstrate compliance with the standards below (or an explanation why they are not applicable). All applications shall include the following information:

1. Name and address of the owner of record, and the name (s) and address (s) of the owner (s) of adjoining lands. Name and address of person or firm preparing map. Scale of map, north point and date.
2. Survey of property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
3. Site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
4. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
5. Businesses must state anticipated numbers of customers, deliveries, and employees. Increases above the approved limits will require a revised approval and permit.

#### Undue Adverse Impact - Aesthetics

The procedure to determine if an **aesthetic/scenic effect** is an "undue adverse effect" was defined by the State Environmental Board's 1985 Quechee Lakes Decision (Quechee Lakes Corporation #W04-110A-EB (11/4/85)).

Under the Quechee Lakes test, "**adverse**" effects are assessed by considering the harmony and fit of a project with its surroundings. If a project fits in its context, it will not have an adverse effect. The five elements that should be considered in the determination of whether an effect is adverse are: the context of the surrounding landscape, the project design, color and materials, project visibility and effects on open space.

Once an effect has been defined as adverse, the following three questions must be answered affirmatively for the adverse effect to be considered "**undue**":

1. Does the project violate a clear written community standard intended to preserve the aesthetics or scenic natural beauty of the area?
2. Does the project offend the sensibilities or the average person... when viewed as a whole is (it) offensive or shocking, because it is out of character with its surroundings, or significantly diminishes the scenic qualities of the area?
3. Has the applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the proposed project with its surroundings?

### 6.8.2 General Conditional Use Standards

In granting an approval, the DRB shall find that the proposed use shall not result in an undue adverse effect on any of the following:

1. **Capacity of existing or planned community facilities or services.** The development shall not have an undue adverse impact on the existing or planned community facilities.
2. **The character of the area affected as defined in the purposes of the district.** The development shall not have an undue adverse effect on the character of the area affected as defined by the purpose(s) and standards of the district in which the proposed project is located as well as by the specifically stated policies and standards of the town plan.
3. **Traffic on roads and highways in the vicinity.** Adequate travel and pedestrian lanes on the site must allow residents, employees, business vehicles and delivery/service vehicles to safely enter and exit the site. The DRB shall determine that the traffic generated by the proposed development shall not result in adverse traffic congestion or exceed the capacity of roads and intersections in the vicinity of the development. The DRB may request, at the expense of the applicant, the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency and may require that mitigation measures be implemented.
4. **The utilization of renewable energy resources.** The proposed development will not interfere with the sustainable use of renewable energy resources, including access to, direct use of, or future availability of such resources.
5. **Compliance with other regulations and Town Plan:** The development shall be in compliance with all bylaws and ordinances in effect-

In the case of proposed commercial development that is a conditional use, the DRB, in addition to the above criteria, shall grant approval only on findings that the proposed development conforms to the above requirements and the following:

1. **The tax base of the Town**– Development shall not have the effect of lowering the overall tax base of the community whether by causing a significant decrease on property values throughout the community, or by requiring investments in municipal infrastructure or services that increase the net tax burden of the community.
2. **The efficient utilization of existing structures and public services** – Development shall utilize existing structures whenever possible, particularly within the Village Center. Developments shall not require significant investments in municipal infrastructure or municipal services at the cost of the taxpayers without a public benefit.
3. **Lighting:** Exterior lighting (including type of lights, location, timing and direction of lighting) shall take reasonable steps to limit light pollution and off-

site impacts. Lights shall not be illuminated outside of hours of operation except as minimally needed to provide safety and security.

4. **Mass and scale:** multi-unit residential, and non-residential structures shall resemble the general size, style, and shape of structures in the same district. Large structures may break up mass with varying heights, setbacks or other architectural features.
5. **Stormwater and erosion control:** Appropriate drainage must control stormwater run-off, prevent erosion and protect neighboring land, water, and roads from undue impacts. Erosion control measures shall comply with the latest standards by the Vermont Department of Environmental Conservation.
6. **Dust/smoke and Odor:** No visible dust/smoke or discernible objectionable odor beyond the property line is permitted, excepting as is incidental and customary to residences, farms or permitted burning.
7. **Vibration:** Continuing vibration which is readily discernible without instruments on adjacent property is prohibited.
8. **Noise:** Development shall not create any noise that disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the community, and is detectable at the property boundary beyond what is expected from permitted uses in the district in which the use is proposed.

## **6.9 Site Plan Approval**

### **6.9.1 When Site Plan Approval is Issued**

The Administrative Officer may issue a Zoning Permit for only one-family and two-family dwellings, agricultural uses and accessory uses. Permits for any other use or structure, or for site development related to a conditional use, must first receive Site Plan approval granted by the DRB. The owner/applicant shall submit the information as required in Section 6.9.2 along with the application.

In order to streamline notice requirements and review, when both Site Plan and Conditional Use Approval is required for the same application, the provisions of this section shall be combined with those for Conditional Use under a single combined review by the DRB.

### **6.9.2 Application for Site Plan Approval**

Every applicant for a Zoning Permit for site plan approval shall submit along with the permit application two sets of the site plan maps and supporting data which shall include the following information:

1. Name and address of the owner of record, and the name (s) and address (s) of the owner (s) of adjoining lands. Name and address of person or firm preparing map. Scale of map, north point and date.
2. Survey of property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
3. Site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
4. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

### **6.9.3 Standards for Approval of Site Plan**

The DRB shall review the site plan map and supporting data before approval, approval with stated conditions, or disapproval is given and shall make a finding in any approval decision that:

1. Reasonable attempts have been made to maximize safety of pedestrian and vehicular circulation between the site and the street/sidewalk network. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to efforts to minimize curb cuts and interconnect uses, to pedestrian safety and convenience, and to access in case of an emergency. The DRB may require shared accesses or other traffic safety/pedestrian measures to satisfy this condition.
2. Circulation, parking and loading/sanitary facilities are adequate for the proposed use, and that vehicle and site lights, timing of operations, vehicle noise and noise from operations, and odors from operations, including refuse storage do not unduly affect adjoining properties. All exterior site lighting shall use shielded fixtures so that the light source is not directly visible from off site.
3. Landscaping, other forms of physical screening and the distance of setbacks provides reasonable compatibility with and providing protection to adjacent property. Particular consideration shall be given to preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and



adjoining properties and the adequacy of plantings/materials to meet seasonal conditions, soil conditions and light on the site.

## **6.10 Specific Conditional Use Standards**

In granting an approval, the DRB shall further find that the proposed project conforms to the following prescribed specific standards so as not to result in an undue adverse effect on any of the general standards set forth in subsection 6.8.1.

### **6.10.1 Hazardous Materials**

The DRB, when reviewing conditional use applications for salvage yards or any other activity seeking the storage of petroleum products or hazardous materials, shall attach the following conditions to any approval:

- a. The Administrative Officer shall perform an annual inspection of the site and prepare a written report for the DRB. Inspections of the premises may take place with 24 hours-notice to the landowner;
- b. The landowner shall provide a concise, professionally prepared plan for the storage and disposal of any and all hazardous material and waste which ensures contamination containment;
- c. No exterior storage of hazardous materials or waste, junk, or junk vehicles within 100 feet of a surface water or wetland will be allowed;
- d. Side and rear setbacks shall be no less than 100 feet;
- e. Adequate screening shall be installed to prevent visibility of stored junk and vehicles from all roads and property lines;
- f. Applicant must provide a copy of the State of Vermont issued license to operate a salvage yard, or a Tier II report in the case of hazardous materials.

### **6.10.2 Sand and Gravel Extraction, Mining, and Quarrying**

Any soil, mineral, sand or gravel excavation or processing operation, expansion of any such existing operation, and resumption of an inactive operation is a prohibited use in all districts unless a Zoning Permit has been issued. For a gravel pit, "expansion" shall include any substantial increase in the rate of gravel removed from the pit, or any use of a lateral area which was not previously part of an existing operation. No Zoning Permit under this section shall be issued until: an application has been filed with the Administrative Officer containing information set out below; Conditional Use Approval

has been granted by the DRB based on criteria set out below; and a Site Plan, including a plan for the rehabilitation of the site, has been approved by the DRB.

### **6.10.2.1 Application for Approval**

Applicants shall provide the following information:

1. Proof of notification of abutting landowners to the project.
2. Site Plan showing the existing topography based on a current survey showing twenty-foot contour intervals. Elevation should be related to USGS data.
3. Excavation Plan showing the breadth, depth and slope of the proposed excavation, and any existing excavations.
4. On the Site Plan or Excavation Plan the location of the following must be indicated:
  - a. wooded and heavily vegetated areas
  - b. existing buildings and structures
  - c. wells
  - d. septic systems
  - e. utilities and the like
  - f. public roads and rights-of way showing width and length
  - g. easements on or below the ground
  - h. surface drainage patterns including wetlands, streams and standing water
  - i. any existing and proposed access roads including width and surface materials, parking areas, fencing, berms, buffer, and visual barriers
  - j. a log of soil borings taken to the depth of the proposed excavation (the number of borings taken will vary with the size and geological make-up of the site)
  - k. all measures to control erosion, sedimentation, water pollution, air pollution, noise pollution and hazards to human health, safety and welfare.
5. Applicant shall submit a Reclamation Plan that includes the following:
  - a. all boundaries of the area proposed for restoration
  - b. final topography of the area proposed for restoration
  - c. final surface drainage patterns, including the location and physical characteristics of all artificial and/or modified drainage facilities
  - d. schedule of restoration activities including seeding mixtures, cover vegetation, fertilizer types and depth of top soil
  - e. subsequent use of the site, if known or anticipated
  - f. seal and signature of an engineer registered in the State of Vermont
6. Operating information describing the proposed methods of operation indicating the type of equipment to be used and duration of the proposed activities.
7. Transportation information showing:
  - a. type and weight of motor vehicles involved.

- b. routes to be utilized
- c. proposed number of trucks per day at peak operation

The burden of proof shall be on the applicant to show the proposed operations may be feasibly undertaken without violating the standards established under this section and without substantial damage or hazard to the public or to adjoining properties.

#### **6.10.2.2 Criteria for Approval**

In considering an application for Conditional Use approval under this section the DRB may apply the following specific standards in addition to other conditional use standards as specified in Section 6 of this Bylaw:

##### **Operating Standards:**

- a. Hours of operation will be limited to Monday through Saturday from 6:30 a.m. until 5:30 p.m. Operations will be prohibited on federal legal holidays. Exceptions to this rule may be granted by the DRB and on demonstration by the applicant that the increase in activity will not materially or adversely affect the character of the immediate area, neighboring land uses, and traffic in the vicinity. In case of an emergency, the Town Manager or Select Board may change hours of operation.
- b. Setback requirements shall be fifty (50) feet from any roadway and two hundred (200) feet from any adjoining property.
- c. If depth of the excavation exceeds fifteen (15) feet and temporary slopes will exceed 1:1 in grade, a berm or fence shall be required to warn of the danger and limit access.
- d. There shall be no accumulation of freestanding water within the excavation area for prolonged periods.
- e. A sufficient amount of topsoil, stripped from the excavation area, shall be stockpiled for use in the subsequent restoration of the site. No topsoil shall be removed from agricultural land.
- f. All vehicles transporting excavated material shall be dressed to prevent dust and spillage when loaded.
- g. All temporary structures shall be removed within thirty (30) days after the operation ceases.
- h. All equipment shall be furnished with noise muffling equipment. During operating hour's noise measured at the closest abutting property line and/or public roadway shall not exceed 80 db.
- i. The traffic generated by the proposed project shall not have a significant adverse impact on the area through which it travels.

### **6.10.2.3 Site Reclamation Standards:**

1. No slope in soil material shall be left in a grade steeper than 2: 1 (Run: Rise). No slope in soil material on agricultural land shall be left in a grade steeper than 3:1.
2. All debris, stumps, boulders, etc. shall be disposed of in a manner acceptable to the Town Manager.
3. Ground levels and grades shall be restored as shown on the approved restoration plan.
4. The rehabilitation site must be compatible with the character of the natural landscape in the vicinity of the site.
5. Implementation of rehabilitation activities shall be on a continuing basis commencing as soon as practical when extraction activities have been completed. In no event shall an excavation site exceed ten (10) acres without commencing rehabilitation activities.
6. Stormwater runoff, erosion and sedimentation following rehabilitation shall be controlled by the applicant to prevent erosion debris and other loose material from filling drainage courses, streets, or private property. All provisions to control natural drainage water shall meet with the approval of the Administrative Officer or the DRB.

### **6.10.2.4 Performance Bond**

Before an application can be approved under this Section, a performance bond shall be secured from the applicant, in an amount sufficient to ensure that upon completion of the extraction activities, the site will be left in a condition consistent with the approved reclamation plan. The bond must be for an amount sufficient to cover the cost of rehabilitating all disturbed areas, and this amount may be adjusted periodically by the DRB.

## **6.11 Planned Unit Development (PUD)**

### **6.11.1 General Intent and Purpose**

For the purpose of encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, facilitating the adequate and economic provision of streets and utilities, preserving the natural and scenic qualities of open land, providing for a mixture of housing types at different densities and providing for the development of existing lots which because of physical, topographical, or geological conditions could not otherwise be developed, the DRB may approve Planned Unit Development (PUD) which do not conform to the district requirements of the districts where they are located.

### **6.11.2 PUD Application Procedure**

Every applicant for a zoning permit for a PUD shall submit all materials required by Section 6.9.2. In addition, the site plan map shall show the location, height and spacing of all buildings or structures, and any unique natural or man-made features of the site. The site plan map shall be accompanied by a statement setting forth the nature and extent of any deviations from the existing district zoning regulations.

### **6.11.3 General Standards for Review**

In addition to the standards set forth in Section 6.11 above, the following general standards must be met in order for the DRB to approve an application for a PUD:

1. The PUD is consistent with the Bethel Town Plan.
2. The overall density of the project will not exceed the number of dwelling units or other uses which could be permitted in the DRB judgment, if the land were subdivided into lots in accordance with district regulations.
3. The PUD must be an effective and unified treatment of the development possibilities on the project site, and the development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and man-made features.
4. The development plan will be phased over a reasonable period of time in order that adequate municipal facilities and services can be provided.
5. The mixed uses in a PUD must be arranged so as to be compatible with and insure visual and rural privacy for residents of the project and adjacent property.

### **6.11.4 Specific Standards for Review**

The following specific standards shall be met prior to approval of an application for PUD:

1. To ensure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter shall meet district set back requirements and screening may be required.
2. Adequate water and sewage disposal facilities shall be provided.

### **6.11.5 Permitted and Conditional Uses**

Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

### **6.11.6 Open Space**

If the PUD results in lands available for parks, recreation, open space or other municipal purposes, the DRB as a condition of its approval may establish such conditions as to the ownership, use and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes.

### **6.11.7 Common Facilities, Common Land, & Land to be Conserved**

1. Land that is to be dedicated for common facilities or for the preservation and maintenance of areas of high public value (see below) may be held in common or individual ownership, or it may be conveyed to the Town, should the Town choose to accept it.
2. Common Land. Land to be dedicated to shared facilities (e.g., private road, community wastewater and water supply systems, or other community facilities), may be held in common, and will be subject to the legal requirements set forth below and in any other section of this Unified Development Bylaw. Land and/or facilities to be held in common shall be subject to appropriate deed restrictions and/or covenants stipulating their allowed use and establishing the person or entity responsible for their regular maintenance and long-term management. All costs associated with administering and maintaining common land and associated facilities shall be the responsibility of applicant and subsequent property owners.
3. Land to be Conserved. Land to be dedicated to the preservation and maintenance of areas of high public value (see below) may be held in common or individual ownership, and may be located on one or more lots, although isolating such resources on a single lot is preferred by the Town. The ownership of the land or the benefit of an easement preserving such land shall be in a manner and form approved by the Development Review Board; such ownership or easement may be held by the municipality or a nonprofit land conservation organization if such entities choose to accept such ownership or easement. Conservation and agricultural easement areas ("open space areas") shall be indicated with an appropriate notation on the final plat.

Areas of high public value include land characterized by:

- Land in active agricultural use,
- Primary (prime & statewide) agricultural soils,

- Steep slopes (equal to or in excess of 15%),
- Flood hazard areas,
- Surface waters, wetlands and associated setback and buffer areas,
- Shore land setback and buffer areas,
- Special areas (identified in the Bethel Town Plan),
- Critical wildlife habitat (as identified in Bethel Town Plan or as field delineated),
- Water supply source protection areas (SPAs),
- Historic districts, sites and structures,
- Scenic views and vistas within the Resource Conservation District, or
- Conserved land on adjacent parcels.

#### **6.11.8 Legal Requirements**

1. Documentation and assurances shall be provided that all required improvements and associated rights-of-way and easements and other common facilities and land will be adequately maintained either by the applicant, subsequent or other landowners, a homeowners' association, or through other accepted legal mechanism. Such documentation shall be in a form approved by the Development Review Board and filed in the Bethel Land Records.
2. All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Development Review Board. The DRB may require that all such improvements be completed prior to the issuance of an Administrative Permit for subsequent development on approved lots. A performance bond or comparable surety acceptable to the Selectboard may be required to ensure that all improvements are completed to specification, in accordance with Chapter 7.

#### **6.12 Manufactured Home Parks**

It is the purpose of this section to provide for the location of manufactured home parks in areas suitable for residential use while attempting to achieve maximum compatibility with adjacent property, adequate provision of municipal services and proper use of available land. The Administrative Officer shall not issue a zoning permit for a manufactured home park except on approval of the DRB granted in compliance with the procedures set forth below.

##### **6.12.1 Application Procedure**

Every applicant for a zoning permit for a manufactured home park shall submit all materials and information required by Section 6.9 above. In addition, the site plan map shall show the location of all proposed manufactured home sites and common open

space. The site plan map shall be accompanied by a statement describing the services and facilities that the applicant will provide residents of the park.

### **6.12.2 General Standards for Review**

In addition to the standards set forth in Section 6.9.3, the following general standards must be met in order for the DRB to approve an application for a manufactured home park:

1. must be designed in an orderly fashion that facilitates emergency access, safe flow of traffic, and pedestrian travel. The development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and man-made features.
1. The development will be phased over a reasonable period of time if needed in order that adequate municipal facilities and services can be provided. The DRB shall require a park owner to provide a potable water supply and wastewater permit sufficient to service the permitted lots.
2. A minimum of 8,000 square feet of lot area shall be provided for each manufactured home including at least 5,000 square feet for each manufactured home site with no dimension less than 50 feet, plus at least 3,000 square feet for each manufactured home to be in common open space, exclusive of roads. Such common space shall be accessible to all residents of the manufactured home park, with all side-dimensions equal to, or greater than, 50 feet. Side setbacks shall be double the district requirements and applied to the edge of the park. Manufactured homes within the park shall be able to be placed on lots such that buildings and parking areas are separated from adjacent sites by at least 10 feet of greenspace on each site.
3. Site planning improvements shall provide for facilities and amenities appropriate to the needs of the park residents; safe, comfortable, and sanitary use by the residents under all weather conditions; and practical and efficient operation and maintenance of all facilities.

### **6.12.3 Effect on State Law**

Nothing in this section abrogates the responsibility of a developer to comply with the provisions of applicable State law.



## **6.13 Recreational Vehicle Parks/Campground**

The Administrative Officer shall not issue a Zoning Permit for a recreational vehicle park/campground except on approval of the DRB granted in compliance with the procedures set forth below.

### **6.13.1 Application Procedure**

Every applicant for a Zoning Permit for a recreational vehicle park shall submit all materials and information required by Section 6.9. In addition, the site plan map shall show the proposed location of each recreational vehicle lot. The site plan map shall be accompanied by a statement describing the services and facilities that the applicant will provide to users of the park.

### **6.13.2 General Standards for Review**

The following general standards must be met before the DRB may approve an application:

1. The recreational vehicle park must be consistent with the Bethel Town Plan.
2. The recreational vehicle park must be an effective and unified treatment of the development possibilities of the project site, and the development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and man-made features.
3. The park design shall not exceed seventeen (17) sites per acre.
4. Each lot shall be located in a dry and well-drained area.

## **7. Subdivision Regulations**

### **7.1 Policy**

It is hereby declared to be the policy of the Town of Bethel to consider the sub-division of land and the subsequent development of the subdivided plat as subject to the control of the Town of Bethel pursuant to the Vermont Planning and Development Act (ACT) (24 V.S.A., Chapter 117) for the planned, orderly, efficient, and economic development of the Town.

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to the general welfare, health or peril from fire, flood or other menace. Land shall not be subdivided until proper provision has been made for drainage, water supply, sewage disposal and capital improvements such as schools, transportation facilities, and fire protection and other municipal services and facilities.

## **7.2 Purpose**

It is the intent and purpose of these Regulations to preserve the rural character of the village of Bethel and the surrounding area.

The Development Review Board shall administer this section of the Bethel Unified Bylaw for the purpose of assuring orderly growth and coordinated development for the Town of Bethel and for protecting and providing for the health, safety and general welfare of its people.

This section of the Bethel Unified Bylaw is hereby adopted for the following purposes:

1. To ensure that development conforms to the policies set forth in the Bethel Town Plan, the DRB shall refer to the goals, objectives, policies, recommendations, and data contained in the Town Plan in making decisions.
2. To ensure conformity and compatibility of development with other applicable laws or ordinances, as presently enacted or as from time to time hereinafter enacted, including but not limited to: Unified Bylaw, Health Ordinance, and Capital Program.
3. To provide for the protection and conservation of all natural resources including land, forests, vegetation, wildlife habitat, air and water. To encourage the wise use and management of these natural resources in order to preserve the integrity, stability, and beauty of the Town and the value of the land.
4. To ensure that there shall not be adverse effect on scenic or natural beauty, aesthetics, historic sites, or rare and irreplaceable natural areas.
5. To encourage growth in or near the Hamlet, Core and Village Districts.
6. To ensure reasonable and specific standards and procedures of subdivision design.
7. To encourage variety and flexibility in residential development, including clustering of lots under provisions of § 4407 of the Act. To discourage "spaghetti" lots, odd size lots, and building in wet and steep areas.
8. To further the purposes contained in the Act, and in particular those purposes set forth in § 4302.

9. To ensure the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
10. To provide for the conservation and protection of the natural, visual, and historical assets of the Town; the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels; the preservation of adequate open space between developments; and the preservation of land values and an adequate tax base.
11. To ensure that development employs efficient and economic uses of energy which are consistent with the current technologies.
12. To ensure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

### **7.3 Administrative Permit Required**

As is specified in section 2.1 of this Unified Bylaw, an Administrative Permit is required for all subdivisions. An administrative permit for a subdivision ensures that all created lots have the needed dimensions, have safe accesses to them, that access points onto public roads are minimized, and that the new lots do not result in undevelopable parcels, or parcels that unnecessarily fragment agricultural lands or forested areas.

#### **Subdivisions and ACT 250**

Act 250 has jurisdiction (thus requiring an Act 250 permit and review) over subdivisions of 10 or more lots in a five-year period. Lots of any size count.

This is a means to prohibit a process of slow, but continual subdivision in order to avoid the more stringent regulations of Act 250.

Assuming the application for a subdivision is in compliance with this Bylaw and is complete, with the correct fee, a hearing will generally take place within 30 days, and a decision will be issued by the DRB within 45 days after the final hearing. Assuming the subdivision request is approved, an administrative permit will be issued, which will become valid 15 days after issuance unless appealed. The subdivision must then be filed as a plat in the town records.

#### **7.3.1 Exemptions**

The following are not subdivisions for the purposes of this Bylaw:

1. Annexations that result in the combination of any existing adjacent parcels into a single parcel for non-commercial use;
2. Agricultural leases.

## **7.4 Subdivision Waivers**

The Development Review Board may waive or vary the provisions of these Regulations if, in its judgment, the provisions are not required by the special circumstances of the plan and the waiver is in the interest of the public health, safety, and general welfare.

The DRB may waive or vary the provisions of these Regulations only upon a demonstration by the applicant that good cause exists. Financial considerations alone shall not constitute good cause. In granting waivers, the DRB shall require such conditions as will in its judgment secure substantially the objectives of the requirements so varied or waived.

The request for a waiver shall be made by the applicant, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the Development Review Board to reach a decision. In such a case, the DRB may move to waive certain requirements and approve the project with appropriate conditions.

In granting waivers, the DRB shall require such conditions as will in its judgment secure substantially the objectives of the requirements varied or waived. Such waivers and their justification shall be in writing and included in the permit file.

The waivers apply only to Section 7 (Subdivision) and will not in any manner vary other provisions of this Unified Bylaw, Comprehensive Plan, or other bylaws then in effect.

## **7.5 Subdivision Categories - Minor versus Major**

### **7.5.1 Minor Subdivision**

The division of a parcel existing on the date of adoption of this Bylaw not involving lands in the Flood Hazard Overlay or the Resource Conservation District resulting in two lots will be considered minor subdivisions (see 7.6 of this chapter).

Minor Subdivisions may be permitted by the Administrative Officer after review from the DRB provided that the proposed minor subdivision meets the requirements of this Bylaw. The Development Review Board may require minor subdivisions to provide information listed in sub section 7.7.3 of this chapter or other information if needed to determine compliance with the subdivision standards. All minor subdivisions in any District shall require a plat.

### **7.5.2 Major Subdivision**

The division of a parcel, or change in the boundaries existing on the date of adoption of this Bylaw into more than two lots or interests for the purpose, whether immediate or not,

of sale, lease, or development; the term includes multi-unit residential, commercial, or industrial development; the dividing of a parcel of land by sale, gift, mortgage foreclosure, court ordered petition, or filing of a subdivision map or plat plan in the Town Land Records where the act of division results in three (3) or more lots within the bounds of the original parcel in existence on the effective date of this amendment. A subdivision shall be deemed to have occurred on the filing of a plat in the Town land records.

## **7.6 Minor Subdivision Application Procedures**

Applicants for a minor subdivision shall file an application with the Administrative Officer on forms available from the Town Office. An application for a minor subdivision shall be approved by the AO upon approval of the DRB:

1. Receipt of a completed application form with supporting documentation from the owner, including:
  - a. descriptions and locations of any existing or proposed rights-of-way,
  - b. any easements,
  - c. reference to the Book and Page Number(s) from the Town Land Records describing the parcel involved and a subdivision plat depicting the boundaries of the proposed minor subdivision; and
2. Determination that the proposed minor subdivision meets with the applicable land, area, and structural requirements for the district in which it is located, and any other applicable dimensional standards as set forth in this Bylaw.

Issuance of a Permit shall serve as evidence by the Town that the subdivision is in compliance with this Bylaw and has been approved.

Notwithstanding, within 180 days of approval by the Administrator, the applicant/owner shall submit for recording with the Bethel Town Clerk a minor subdivision plat. Such plat shall be stamped “Approved by the Town of Bethel as a Minor Subdivision Only.”

Furthermore, the date of such approval shall be referenced on the plat. Failure to record such plat within the prescribed period shall invalidate approval of the minor subdivision.

Any future development proposed on the subdivided parcel shall be subject to the rules and regulations of this Unified Bylaw and will require a permit unless the subdivision and proposed development were applied for at the same time.

## **7.7 Major Subdivision Application Procedures**

### **7.7.1 Application Forms**

All applications required under these Regulations shall be submitted on forms furnished and approved by the Town of Bethel Development Review Board. It shall be the responsibility of the applicant to meet the requirements of these Regulations and provide such sufficient information to enable the DRB to reach a decision.

#### **7.7.1.1 Fees**

Upon submission of an application for a subdivision, the subdivider shall pay the application fee as established by the Selectboard for the administration of these Regulations.

### **7.7.2 Process**

Whenever a Major Subdivision is proposed, before any construction, land clearing or building development is begun, before any contract of sale of all or any part of the proposed subdivision, or before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plan may be filed with the Town Clerk, the subdivider or his/her authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following section.

1. Plan Submittal - The subdivider shall submit for approval three (3) copies of a subdivision plan according to the specifications set forth in Section 7.7.3 of these Regulations.
2. Public Hearing - Within thirty (30) days after formal submission of all plan information required by the DRB, the DRB shall conduct a public hearing; said hearing to be publicly warned at least fifteen (15) days in advance of the hearing date.
3. Plan Approval - The DRB, within forty-five (45) days after the conclusion of the public hearing, shall approve, approve with modifications and/or conditions, approve with bond requirements, or disapprove the subdivision plan. If disapproved the applicant shall be notified in writing of the reasons for disapproval. Failure to act within such forty-five (45) day period shall be deemed approval.
4. Phasing - At the time the DRB grants plan approval, it may require the plan to be divided into two or more phases and may impose conditions upon each phase as it

deems necessary to assure the orderly development of the plan and to avoid overburdening Town facilities and services.

5. Filing of Plat - Within one hundred eighty (180) days of plan approval, the subdivider shall file the approved plat on reproduction mylar with the Town Clerk and one (1) paper copy (if different from the plan copies) with the Development Review Board. The plat will be rendered void if it is in anyway different from that approved or if it is not filed within the one hundred eighty (180) day period.
6. Plan Recording - All subdivisions must be recorded by the applicant in the office of the Town Clerk within one hundred eighty (180) days of the date of the plan approval or the approval expires. Prior to recording, the plan must be signed by two (2) authorized members of the Development Review Board.
7. For any subdivision which requires the construction of roads or other public improvements by the applicant, the authorized members of the Development Review Board may not sign the approved plan until the subdivider has:
  - a. Met the requirements, if any, of Section 7.8.8, Performance Bond Requirements, of these Regulations; or
  - b. Constructed all public improvements to the satisfaction of the Development Review Board and Selectboard, public improvements to be maintained to Town standards until taken over by the Town or a private association.
8. Two (2) copies of the approved Subdivision Plan shall be filed with the Town Clerk. The Subdivision Plan to be recorded shall be of a size determined by the Development Review Board and be consistent with State recording requirements (27 VSA, Sections 1401-1406).
9. Failure to record an approved plan with the Town Clerk within the prescribed period noted above shall render the approval null and void.

#### **7.7.2.1 Attendance at Public Hearings**

The subdivider or his duly authorized representative shall attend all required meetings and hearings held under these Regulations to review the subdivider's application including any public meetings, or hearings which are continued to a specific time and date. The DRB may disapprove the subdivider's application if he or she or his or her duly authorized representative fails to attend any such public hearings or meetings.

#### **7.7.2.2 Acceptance of Streets and Open Space**

The approval of the plat or filing for record thereof shall not constitute or be evidence of any acceptance of any street, park, or other open space shown on such plan. Such acceptance shall be by resolution of the Select Board.

#### **7.7.2.3 Filing of Approved Plat**

Filing of the approved plat shall be in accordance with the provisions of the Act as presently enacted and as hereinafter from time to time amended.

#### **7.7.2.4 Plat Void if Revised After Approval**

No changes, erasure, modification, or revision shall be made on any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless said plat is first re-submitted to the DRB and the DRB approves such modifications after public hearing.

In the event that such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

#### **7.7.2.5 Approval Conditions**

Orders and findings by the Development Review Board which contain stipulations and/or conditions affecting approvals for any lot, tract or parcel of land may be recorded in the miscellaneous land records of Bethel, or on the original mylar, and indexed to the record owner of said parcel, the recording fee to be paid by said owner.

#### **7.7.2.6 Impact Fees**

The subdivider may be obligated to pay impact fees pursuant to any Ordinance in effect at the time the application is pending.

#### **7.7.2.7 Expiration Date**

Each approval for Major Subdivision shall contain a time limit within which all improvements shall be completed not to exceed three (3) years from the date of approval, unless extended by the DRB.



### **7.7.3 Application Requirements for a Subdivision**

The following information shall be submitted with every plan for a subdivision application:

1. The general timing of the construction.
2. A statement of compliance of the proposed subdivision with this Unified Bylaw and other municipal documents.
3. Evidence of written notification to all adjacent property owners
4. Description of Water and Sewage - Description of the proposed water supply and sewage disposal systems.
5. Granting of Easements - In the event of granting of easements to the Town of Bethel, a written acknowledgement of the subdivider's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.
6. Survey Plat - Survey plat of subdivision showing subdivision boundaries and individual lot boundaries with reference to established boundary markers or monuments.
7. The Map - A map drawn to scale, certified by a licensed land surveyor, not to exceed one hundred (100) feet per inch, suitable for filing as a plat on graph paper roughly to scale or on a copy of the town tax map, and containing all of the following:
  - a. Subdivision name or title, address at which it is located, scale, north point and date.
  - b. Name and address of subdivider.
  - c. Subdivision boundaries and lot boundaries of land being subdivided.
  - d. Total acreage of the subdivision and the number of lots proposed with their individual acreage.
  - e. Location of proposed or existing water supply.
  - f. Location of proposed or existing sewage disposal system.
  - g. Existing water courses, marshes, wooded areas, public facilities and other significant physical features in the subdivision.
  - h. Location of all existing buildings, utilities and other artificial improvements.
  - i. Existing restrictions on the use of the land including easements, covenants, rights-of-way and zoning boundaries.
  - j. Proposed roads, rights-of-way, utilities. The roads and rights-of-way will show width and typical road profiles.
  - k. Contiguous land owned by the applicant.

- l. The names of adjacent property owners.
  - m. Adjacent land uses.
  - n. Any acreage exceeding fifteen per cent (15%) land slope.
  - o. Reference to established boundary markers or monuments.
  - p. The stormwater drainage plan which adheres to the terms of the State of Vermont’s Stormwater General Permit 3-9050.
8. Copy of the deed (available from the Town Land Records) and the Town parcel number (available from Town Clerk or Listers);
  9. Additional information may be required by the DRB as it deems necessary, including but not limited to:
    - a. Contour lines at an interval not greater than five (5) feet.
    - b. Initial grading plans showing areas of cut and fill and revised contours at an interval not greater than five (5) feet.
    - c. A storm water drainage plan, drawn at a contour interval not greater than five (5) feet, which shall indicate the methods of collecting and discharging drainage, as well as methods for temporary and permanent erosion control.
    - d. Typical landscaping plans showing plant types, ground cover, lighting, screening and signage.

#### **7.7.4 Other approvals needed**

If not already done, subsequent to the approval of the subdivision, the applicant shall submit the approved plan to the Town or any other local entities with jurisdiction over the project and to such regional, State, and Federal agencies as may be required by law prior to applying to the Development Review Board for Final Plat approval.

#### **7.7.5 Completion of Infrastructure Improvements**

Approvals for major subdivisions shall contain a time limit within which all proposed public or jointly owned components (roads, utilities, facilities, etc.) shall be substantially completed. The time limit shall not exceed three years from the date of approval unless extended for unusual circumstances upon request of the applicant and approval of the Development Review Board.

#### **7.7.6 As-Built Drawings**

As a condition for approval of a major subdivision, the Development Review Board may require the developer to provide to the Development Review Board as-built drawings showing the exact location of all roads, utilities, curb cuts, structures, and other installed improvements. “As-built” plans shall be submitted by the applicant to the Administrative Officer as original ink drawings on mylar, 18"x24" size. Plans must be signed by a registered surveyor licensed in the State of Vermont. (See 7.8.7)

## **7.8 Planning & Design Standards for Major Subdivisions**

### **7.8.1 DRB Review Criteria**

The DRB shall find in the affirmative, unless it waives the requirement, that when reviewing an application for major subdivision, the proposed subdivision:

1. Will not place an unreasonable burden on the ability of the Town to provide municipal or governmental services and facilities.
2. Has sufficient water available for the foreseeable needs of the proposed development.
3. Has sufficient sewage capacity available for the foreseeable needs of the proposed development.
4. Will not cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town. The proposal should use a minimum number of access roads or driveways to the Town highways.
5. Contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination, and attractiveness.
6. Demonstrates it has taken reasonable steps to preserve and protect existing features such as but not limited to trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, critical wildlife habitat, priority forest blocks and habitat connectors, historic resources, prime agricultural land and open meadowland. (See 7.8.4)
7. Includes sufficient open space for recreation.
8. Includes adequate provision for the control of runoff and erosion during and after construction. (Subdivisions that in their final form will have disturbed or created impervious surface enough to trigger state stormwater permits will be required to obtain those prior to a plat being filed.)
9. Is in compliance with the Bethel Town Plan, Unified Bylaw and any other municipal Ordinances in effect.
10. Whether the proposed development is compatible with surrounding properties.
11. The site, proposed uses and lot lines are suitable for the proposed density.

12. The proposal makes adequate provision for preservation of open land to the extent it is economically feasible.
13. For subdivisions in the Resource Conservation District, the proposal minimizes intrusion of development into productive parcels of forest land, priority forest blocks, and habitat connectors and minimizes parcelization and fragmentation by concentrating development and leaving the bulk of the land in a contiguous undeveloped state.
14. Lot layouts, building envelopes and cut lines (straight line cut in a forest) demonstrate reasonable attempts to preserve the rural character of the land.
15. Reasonable steps have been taken to cluster development in the Rural and Resource Conservation Districts.
16. Site layout is done in such a manner as to encourage energy conservation by providing solar access.

## **7.8.2 General Standards**

### **7.8.2.1 Fire Protection**

The Development Review Board may require the provision of facilities necessary for adequate fire protection, including road widths, turning radii, pull-offs and water supply. If so, such facilities shall be designed in consultation with the Bethel Fire Department and for any major subdivision, shall include a system of hydrants or ponds built to generally accepted standards.

### **7.8.2.2 Drainage**

Drainage shall not adversely affect individual lots in the subdivision, any off-site properties or roads on or off the subdivision site. The Development Review Board may require that the applicant submit a report from a professional engineer with regard to the drainage impacts on the subdivision and for the drainage system for the subdivision based on a 50-year storm standard.

### **7.8.2.3 Erosion Protection**

Subdivisions shall be designed so as not to cause unreasonable soil erosion, storm water run-off, or a reduction in the capacity of the land to hold water so that a dangerous condition might result. A professional engineer or erosion control specialist shall prepare, where necessary, drainage and erosion control plans. The site shall be planned to minimize the use of pavement, make use of retention ponds and berms, and employ phased construction to reduce runoff and erosion. Use of innovative permeable materials is encouraged.

The Development Review Board may require the phasing of construction to reduce the amount of land disturbed by construction at any one time and may stipulate deadlines for installation of erosion control or soil stabilization measures.

The Development Review Board may request determination of the effect of the subdivision on the existing downstream drainage capacity outside of the area of the subdivision. Where the DRB anticipates that the increased runoff will overload the capacity of the downstream system, it may request the applicant to delay construction until the capacities are adequate and may request the applicant to assist in the capacity improvements deemed necessary.

#### **7.8.2.4 Utility Lines**

Electric, telephone, cable television and other distribution systems shall be placed underground for any major subdivision where feasible. The subdivider shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for installation both for the proposed subdivision and areas adjacent to the subdivision which are suitable for development. All utilities shall follow the road right-of-way unless the Development Review Board shall approve otherwise based upon a showing of need.

#### **7.8.2.5 Water and Sewage**

The applicant shall connect to the municipal sewage and water facilities subject to the approval of the Selectboard, where proximity to existing municipal lines makes connection feasible. It shall be presumed feasible where the distance required to extend municipal lines to the beginning of the parcel divided by the number of units is 200 feet or less. Any expenses required for the connection shall be borne by the developer.

Where the applicant cannot utilize municipal sewage and water facilities, the developer must demonstrate the adequacy of the proposed on-site systems to the satisfaction of the Board. Any such proposal must meet all state and local requirements. A copy of a professional engineer's plans for the facilities shall be included for any major subdivision.

#### **7.8.2.6 Minimum Road Frontage**

For all lots fronting on a Town road or a road to be taken over by the Town up to and including five (5) acres, the minimum required road frontage shall be represented by X in the formula  $3X^2 = \text{lot area in square feet}$ . For all lots in excess of five (5) acres, the minimum required road frontage shall be represented by the X in the formula  $4X^2 = \text{lot area in square feet}$ . However, no lot shall be required to have a road frontage which exceeds five hundred (500) feet. (See Appendix A: Minimum Road Frontage Chart)

### 7.8.2.7 Disclosure of Subsequent Development Plans

Whenever a subdivider submits a proposal for development on only a portion of a contiguous parcel, the DRB may require a disclosure of the intended use of the remaining portion of the land.

### 7.8.3 Standards for Shared Driveways Serving 2 Units

Shared driveways within a subdivision shall meet the following standards:

1. **Minimum Right-of-Way** - The minimum right-of-way shall be thirty (30) feet.
2. **Minimum Road Width** - The minimum road width for a shared driveway shall be twelve (12) feet.
3. The DRB may impose appropriate conditions where the proposed shared driveway is inadequate to provide for emergency services or the common portion of the roadway exceeds two hundred (200) feet.
4. The DRB may require the standards for private or minor roads where it finds that future development of the parcel or contiguous parcels may result in the roadway proposed as a shared driveway serving in excess of two units.
5. The plat for a subdivision which includes a shared driveway shall state the fact that any roadways classified as shared driveways are not eligible to be taken over by the Town and shall designate any such roadways.

#### 7.8.3.1 Standards for Private Road Construction Serving More than 3 to 4 Units

Private roads within a subdivision shall meet the following standards:

1. **Minimum Right-of-Way** - The minimum right-of-way shall be fifty (50) feet.
2. **Minimum Road Width** - The road shall be a minimum of sixteen (16) feet in width.
3. **Road Bed** - The road bed shall be prepared, the road graded and crowned, and provision for drainage made so that the road will not be subject to erosion.
4. **Turnouts** - Turnouts shall be provided where the length of the road or other conditions such as slope or curves make passage or meeting vehicles a safety hazard.

5. **Intersections** - All approaches to intersections shall have a maximum slope of three (3) percent for a minimum distance of fifty (50) feet from the centerline of the intersected road.
6. **Maximum Grade** - The maximum grade shall be ten (10) percent.
7. The DRB may require the standards for minor roads or other appropriate conditions where safety considerations suggest that the road standards submitted by the applicant are inadequate to ensure the safety of residents and other users. The DRB may require the standards for minor roads where it finds that future development of the parcel or contiguous parcels may result in the road serving in excess of four units or where the road will connect two collector and/or arterial roads.
8. The plat for a subdivision which includes a private road shall state the fact that any roadways classified as private roads are not eligible to be taken over by the Town and shall designate any such roadways.

#### **7.8.3.2 Standards for Minor Road Construction Serving 5 or More Units**

In addition to the requirements for all roads (7.8.3), minor roads within a subdivision shall meet the following standards:

1. **Minimum Right-of-Way** -The minimum right-of-way shall be fifty (50) feet.
2. **Road Construction Specifications** - The proposed road must be constructed to the following specifications:
  - a. **Clearing of Roadbed** - The entire roadbed shall be cleared and grubbed with all stumps and debris disposed of outside of the right-of-way.
  - b. **Width of gravel** shall be a minimum of twenty-four (24) feet.
  - c. **Depth of gravel** shall be eighteen (18) inches except where subsoil conditions require additional amounts in the opinion of the Development Review Board.
  - d. **Gravel** shall be good bank run gravel or an equivalent approved by the Board. The gravel should meet Vermont Department of Highways specifications for gradation.
  - e. **No stone larger than six (6) inches** shall be placed in an eighteen (18) inch depth of gravel, and no stone larger than two (2) inches shall be placed in the top four (4) inches of gravel.

- f. The gravel surface shall be compacted and fine graded with a two (2) percent crown.
- 3. **Intersections** - All approaches to intersections shall have a maximum slope of three (3) percent for a minimum distance of seventy-five (75) feet from the centerline of the intersected road.
- 4. **Maximum Grade** - The maximum grade of a minor road shall be eight (8) percent.
- 5. **Dead ends and Cul-De-Sacs** - Dead end roads shall be constructed at the closed end with a roadway of which the minimum radius for the right-of-way shall not be less than sixty-five (65) feet.
- 6. **Road Curves** - Road curves shall have a minimum radius of one hundred (100) feet.

#### **7.8.3.3 Road Construction Standards for Public Right of Way**

All roads constructed within a subdivision shall meet the requirements of the Bethel Curb Cut Ordinance and the following standards.

- 1. **Road Centerline** - The centerline of any road or private drive shall be located in the center of the right-of-way.
- 2. **Shade Trees Within Right-of-way** - Selected shade trees within the right-of-way will be retained if such trees will not interfere with the purpose of the proposed road.
- 3. **Stone Walls** - Stone walls within the right-of-way will be retained if such walls will not interfere with the purpose of the proposed road.
- 4. **Intersections**
  - a. No more than two (2) roads shall intersect at any one point.
  - b. Minor roads and private roads and driveways intersecting an arterial or collector road shall, whenever possible, coincide with any existing or proposed intersections on the opposite side of such road.
  - c. Off-set intersections for minor roads or private roads and driveways with an arterial or collector road shall have a minimum of 150 feet separation measured from the centerline of the intersecting roads. Intersections of arterial roads and collector roads shall be at sufficient spacing to provide for safe egress.



- d. Any intersection involving a collector road shall not be at an angle less than ninety (90) degrees. No minor road or private road shall intersect with another minor road or private road at an angle less than seventy-five (75) degrees.
  - e. Proposed roads intersecting a collector road or arterial road shall have an unobstructed view of sufficient distance to provide for safe egress.
  - f. The proposed development must provide for the minimum feasible number of access points to a public road.
5. **Minimum Road Grade** - The minimum grade of any proposed road is one (1) percent.
6. **Slopes** - Slopes shall be constructed so that the maximum cut slopes will be 2:1 and the maximum fill slopes will be 4:1.
7. In addition to the requirements for all roads, minor roads within a subdivision shall meet the following standards:
- a. **Minimum Right-of-Way** -The minimum right-of-way shall be fifty (50) feet.
  - b. **Road Construction Specifications** - The proposed road must be constructed to the following specifications:
  - c. **Clearing of Roadbed** - The entire roadbed shall be cleared and grubbed with all stumps and debris disposed of outside of the right-of-way.
  - d. **Width of gravel** shall be a minimum of twenty-four (24) feet.
  - e. **Depth of gravel** shall be eighteen (18) inches except where subsoil conditions require additional amounts in the opinion of the Development Review Board.
  - f. **Gravel** shall be good bank run gravel or an equivalent approved by the Board. The gravel should meet Vermont Department of Highways specifications for gradation.
  - g. **No stone larger than six (6) inches** shall be placed in an eighteen (18) inch depth of gravel, and no stone larger than two (2) inches shall be placed in the top four (4) inches of gravel.
  - h. **The gravel surface shall be compacted and fine graded with a two (2) percent crown.**
8. **Intersections** - All approaches to intersections shall have a maximum slope of three (3) percent for a minimum distance of seventy-five (75) feet from the centerline of the intersected road.
9. **Maximum Grade** - The maximum grade of a minor road shall be eight (8) percent.
10. **Dead ends and Cul-De-Sacs** - Dead end roads shall be constructed at the closed end with a roadway of which the minimum radius for the right-of-way shall not be less than sixty-five (65) feet.

11. **Road Curves** - Road curves shall have a minimum radius of one hundred (100) feet.

### 7.8.3.3 Traffic Management Study

The subdivision shall be designed to manage traffic in an orderly and safe manner. Where in the judgment of the DRB, a proposed subdivision presents a potential for significant traffic impact on Town or State highways, village centers, or historic areas, adjunct to the subdivision, a traffic study may be required. The purpose of the study shall be to quantify the traffic impacts resulting from the subdivision and to identify necessary and appropriate mitigating measures. The applicant shall fund the study. The DRB and the applicant shall jointly select of the firm or individual preparing the study.

Based upon review of the study and related evidence, the DRB may condition its approval to avoid or mitigate any traffic congestion or safety problems associated with the subdivision.

Such studies include the following information:

1. A description of the general location of the project.
2. A statement of existing traffic conditions and projected traffic conditions in five (5) years.
3. A statement comparing the operating Level of Service of the roadway(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and in five (5) years.
4. A statement of recommendations outlining any adverse traffic impact of a proposed subdivision and the necessary improvements to provide an acceptable operating Level of Service.
5. Based upon a review of the study, the Development Review Board shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

### 7.8.4 Conservation of Existing Resources

The design of the subdivision shall conserve, to the extent reasonable, existing resources, including streams, forest blocks and meadowland, primary agricultural soils, historic structures or sites, scenic resources, wildlife habitats and corridors, wetlands, aquifers, and other natural or cultural resources. Specifically, the following areas shall be treated as follows:

1. **Surface Water, including Wetlands** - No development will be allowed within 50 feet of surface waters. Stream crossings may be allowed but should be avoided if practical. Stream crossings will need either a Stream Alteration Permit by the Vermont River Management Program or a letter from the program commenting

- on the design of the crossing. Wetlands, as identified and defined by the State of Vermont, shall not be drained, filled or altered to accommodate subdivisions except upon issuance of a Conditional Use Determination by the Agency of Natural Resources. Proposals for major subdivisions in or adjacent to an identified wetland shall delineate wetland boundaries by qualified biologists. Adequate setbacks from wetlands shall be no less than 100 feet. This provision shall not apply to the use of such areas for the growing of food or crops in connection with farming activities.
2. **Historic Structures/Sites** -Subdivision involving buildings or sites of historic significance shall be designed to retain or enhance the unique characteristics of the historic structures or sites. The work shall not unnecessarily destroy or result in removal of such historic resources.
  3. **Prime Agricultural Soils and Pastureland** - Subdivision of prime agricultural soils and pasturelands shall be permitted only where the DRB makes the following findings about the subdivision:
    - a. retains the maximum possible soils/pastureland for agricultural use through such means as clustering under PUD provisions, reduction in allowable density, sale or donation of development rights;
    - b. maximizes the use of the least productive land and the protection of primary agricultural soils; and
    - c. does not conflict with existing or potentially viable agricultural uses in the area.
  4. **Forest Resources** - Conservation of productive forestland and the economic viability of the industry are matters of public good. Subdivisions involving tracts of forest resources will be approved on determination that it has been planned to retain its forestry potential by providing for reasonable lot sizes and numbers, the use of cluster planning concepts, and economical layout of roads, utilities, or similar investments.
  5. **Natural Heritage Areas** - Any subdivision proposed on lands containing a Natural Heritage Area designated by the State of Vermont shall be designed to minimize impacts on these areas.
  6. **Conservation of Open Space** - Subdivisions in the Resource Conservation District with six or more lots will be required to maintain at least 80% of the total acreage in contiguous (but not necessarily single ownership) and undeveloped acreage.

### **7.8.5 Energy Conservation and Environmental Design**

Energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

### **7.8.6 Supervision and Certification of Water and Sewer Construction**

1. **Supervising Engineer** - Prior to commencing construction of required water and sewer improvements, the subdivider shall inform the Town Manager's office of the name of the supervising engineer who will be responsible for the work. The supervising engineer shall be registered in the State of Vermont.
2. **Site Inspection** - The designated supervising engineer shall inspect the site during all phases of construction of the required water and sewer improvements.
3. **Certification Upon Completion** - Upon completion of the required work, the supervising engineer shall certify to the Town in writing, that the work was completed in accordance with the approved plans. As-built drawings shall be prepared and submitted with such certification if construction deviated from approved plans.
4. **Permit for Subsequent Work** - No permit for subsequent work for structures in the subdivision shall be issued until such certification has been received and accepted.

### **7.8.7 As Built Drawing**

Prior to the use or occupancy of the project, the subdivider shall submit an "as-built" plan. This plan shall be drawn to scale and shall indicate by dimensions, angles, and distances the location of all utilities, structures, roadways, easements and other improvements as constructed. As-built plans shall be submitted by the subdivider to the Administrative Officer on a permanent recordable print(s) 18inches x 24inches size.

### **7.8.8 Performance Bond Requirements**

The DRB may require a performance bond in an amount sufficient to cover the full cost of constructing and maintaining any public improvements. Such performance and/or maintenance bond is to be submitted prior to Final Plan approval.

Security that the project shall be completed and/or maintained as approved may be required in the form of:

1. A surety bond, issued by a surety company authorized to do business in Vermont, to be filed with the legislative body in form and amount satisfactory to it, or

2. A letter of credit, cash, escrow account or savings bankbook properly endorsed to the Town in an amount to be determined by the legislative body, or
3. A performance bond from the developer or contractor.

The performance guarantee shall not be released until the DRB has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The performance bond shall run for a term to be fixed by the DRB, but in no case for a longer term than three (3) years. However, the term of such bond may, with the consent of the owner, be extended for an additional period not to exceed 3 years.

If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the Town and upon receipt of the proceeds thereof, the Town shall install or maintain such improvements as are covered by such performance bond.

The DRB shall also require surety covering the maintenance of said improvements for a period of two (2) years after acceptance by the Town; said surety to be equal to not less than 10 percent of the estimated cost of those improvements.

### **7.8.9 Legal Data**

Where applicable to a specific subdivision, the following may be required prior to approval of the Major Subdivision:

1. An agreement to convey to the Town, land and/or Development Rights to be used roads, open space and other public purposes;
2. An agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claim regarding the Town's obligation to accept said improvements as Town facilities;
3. Descriptions of easements and rights-of-way over other property to remain in private ownership; and
4. Description of easements to drain onto or across other property.

## 8. Waivers and Variances

### 8.1 Waivers and Variances

There are times when, for specific reasons, a proposed use cannot fit the requirements of a permitted or conditional use. This regulation allows for such unusual development, but only within certain bounds through the processes that follow. Development that is already a non-conforming use, due to valid land uses that predate this Bylaw, may be changed with approval from the Development Review Board only as outlined below. Applicants for new development that only needs a dimensional change from the established standards (such as a reduction in setback) may be able to get a waiver. These are issued by the Administrative Officer for certain conditions, and the Development Review Board for others. Applicants for development that cannot get a waiver and that cannot be permitted in strict conformance with the Bylaw, may be able to get a variance from the Development Review Board after meeting a rigorous five-part test.

#### 8.1.1 Qualifying for a Waiver

Waivers shall be granted as a permitted use by the Administrative Officer to **reduce dimensional requirements only** as specified under each district in Section 4, and waivers may be granted by the Development Review Board, after a formal public hearing, to reduce any dimensional requirements of any district if the proposed development meets the criteria in section 4.

#### 8.1.2 Waiver Standards

In all districts, waivers may be granted without a hearing by the Administrative Officer for:

1. Reductions in front or side setbacks as necessary to allow for disability access;
2. Reductions in side setbacks to allow for necessary life-safety improvements;

In all districts, waivers shall be granted without a hearing by the Administrative Officer for increasing the density of units per acre by 40% within a PUD or a subdivision on lots served by town sewer and water (provided there is the needed capacity in such systems) for an affordable housing development or mixed-use development as defined in 24 VSA section 4302; or increasing the maximum height by one floor of such development provided the Division of Fire Safety certifies the design complies with building code requirements. If the PUD or subdivision has not received prior approval from the Development Review Board, the Administrative Officer shall refer the waiver request to the Development Review Board and they shall issue the waiver.

In all districts, waivers may be granted after a hearing by the Development Review Board if the waiver will not result in a greater than 50% decrease in any minimum lot area or setback requirement (provided that the structure does not enter the right-of-way), and any one or more of the following criteria are met:

1. The proposed development conforms to the existing development patterns of the district; or
2. The proposed development will cluster development and more effectively preserve open land, forest land, or scenic vistas; or
3. The proposed development is for affordable housing or mixed-use development and provides for visual mitigation through design, screening, or other reasonable remedy.
4. In the Medium Density District, a waiver may be granted by the DRB for a reduction of minimum lot size down to one acre during a subdivision provided that a density of one principal structure per 4 acres is still achieved on lands covered by the original lot and that the smaller lot size than would otherwise be required facilitates the preservation of working lands or scenic areas. Such density usage shall be recorded in the permit file and ascribed to a certain contiguous piece of the property which shall be shown on the subdivision plat.
5. In the Rural District a waiver may be granted by the DRB for a reduction of minimum lot size down to one acre during a subdivision provided that a density of one principal structure per 10 acres is still achieved on the original lot and that the smaller lot size than would otherwise be required facilitates the preservation of working lands or scenic areas. Such density usage shall be recorded in the permit file and ascribed to a certain contiguous piece of the property which shall be shown on the subdivision plat.
6. In the Resource Conservation District, a waiver may be granted by the DRB for a reduction of minimum lot size down to one acre during a subdivision provided that a density of one principal structure per 20 acres is still achieved on the original lot and that the smaller lot size than would otherwise be required facilitates the preservation of undeveloped lands, working lands or scenic areas. Such density usage shall be recorded in the permit file and ascribed to a certain contiguous piece of the property which shall be shown on the subdivision plat.

### **8.1.3 Appeal for Variance**

Upon appeal under Section 9.4 of this Bylaw, a variance from any provisions of this Bylaw may be permitted by approval of the DRB after public notice and public hearing and after a finding that special or unique conditions or circumstances relating to a

particular property exist and that a strict or literal enforcement of this Bylaw would result in unnecessary or undue hardship.

Except as specified in §4469(b) of the Act for renewable energy structures, variances shall be, and only be, granted upon a written finding that **ALL** of the following facts are true:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of this Bylaw in the neighborhood or district in which the property is located.
2. That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That the unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and from the Town Plan.

Variances within the Floodplain Overlay District may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6 6, after a public hearing noticed as described in Section 9.2 of this document. Within the Floodplain Overlay District these additional criteria apply:

1. A variance for development within the Floodplain Overlay District may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights and will advise the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and may result in increased



flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of the Act and the Town Plan. The Development Review Board must grant or deny the variance within 45 days of the final hearing or approval will be automatically given on the 46th day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first-class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

In the event of a variance in the Floodplain Overlay District, a copy of such a variance shall be affixed to the deed of the property on file in the municipal clerk's office.

#### **8.1.4 Variances for Renewable Energy Resource Structures**

The DRB shall hear and decide a request for a variance from the provisions of a Bylaw for a structure that is primarily a renewable energy resource structure as required by Section 4469(b) of the Act. The DRB shall grant a variance and render a decision in favor of the appellant if **ALL** of the following facts are true, and the findings are specified in its written decision:

1. It is unusually difficult or unduly expensive for the applicant to build a suitable renewable energy resource structure in conformance with the Unified Bylaw;
2. The hardship was not created by the applicant;
3. 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 resources, or be detrimental to the public welfare; and
4. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the Unified Bylaw and from the Town Plan.

### **8.2 Appeal of Change to Non-Conformity Variance or Waiver**

See appeals in section 9.4 for more information on the appeal process.

## **9. Administration and Enforcement**

### **9.1 Administration**

#### **9.1.1 Appointment of Administrative Officer**

The Administrative Officer shall be nominated by the Planning Commission and shall be appointed by the Selectboard for a term of three years. The Administrative Officer may hold any other office in the municipality other than membership on the Board of Adjustment or Development Review Board. The Administrative Officer shall administer this Bylaw literally and shall not have the power to permit any land development which is not in conformance with this Bylaw. The Administrative Officer may be removed for cause at any time by the Selectboard after consultation with the Planning Commission.

The Planning Commission may nominate, and the Selectboard appoint, an Acting Administrative Officer who shall have the same duties and responsibilities as the Administrative Officer.

#### **9.1.2 Duties of the Administrative Officer**

The Administrative Officer shall have the following powers and duties:

1. To receive applications for and to issue or deny Zoning Permits and refer appropriate matters to the Development Review Board.
2. To promptly refer to the DRB any site plan map and supporting data, where site plan approval is required by Section 6.9 hereof. No permit shall be issued until such approval is given.
3. To post and give notice of the issuance of Zoning Permits, pursuant to ‘Public Notice’ as found in Definitions of this Bylaw.
4. To issue Zoning Permits following approval by the DRB of conditional use applications, approval of appeals for variances, or approval of applications for development of a steep slope, or approval of applications for development within a wellhead protection area, or approval of applications for development within a flood hazard overlay district.
5. To conduct inspections of buildings and uses of land or buildings to determine compliance with the terms of this Bylaw and with the terms and conditions of permits previously issued. For this purpose, the Administrative Officer shall have the right to enter upon any premises at any reasonable time.
6. To issue to an offender, notices of violations of this Bylaw pursuant to Section 9.5 of this Bylaw.

7. To institute legal proceeding in the name of the Town. To collect fines for penalties for violations of this Bylaw pursuant to Section 4451 of the act; and to prevent or abate any act, use or condition which violates or threatens to violate the terms of this Bylaw, pursuant to Section 4452 of the Act.
8. To maintain at the Bethel Municipal Offices current records of the Bylaw, amendments, the zoning map, all zoning permits and pending appeals.
9. To deliver the original or copy of any permits issued, notices of violation, or notice of permits to the Town Clerk for recording pursuant to 24 V.S.A. Sections 1154(a) and 4449 (c).
10. To properly file and maintain a record of:
  - a. All permits issued in areas covered by section 4.12 of this Unified Bylaw;
  - b. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
  - c. All flood proofing and other certifications required under this regulation;
  - d. All legal determinations related to Substantial Damage and Substantial Improvement; and,
  - e. All decisions of the DRB (including variances and violations) with the supporting findings of fact, conclusions and conditions.

### **9.1.3 Establishment of Development Review Board (DRB)**

There is hereby established a Development Review Board. The Selectboard shall appoint the members of said board. The number of members, not less than five (5) nor more than nine (9), and their terms of office, shall be determined by the Selectboard. Vacancies shall be filled by the Selectboard for any un-expired term and upon the expiration of such terms. Any member of the DRB may be removed for cause by the Selectboard upon written charges and public hearing.

### **9.1.4 Powers of the Development Review Board**

The DRB shall have the following powers, in addition to those specifically provided for elsewhere in this Bylaw.

1. To hear and decide appeals where it is alleged that an error has been committed in any order, requirement, decision or determination made by an Administrative Officer in connection with the enforcement of this Bylaw.
2. To hear and decide a request for a variance.
3. To hear and decide a request for conditional use approval.
4. To hear and decide requests for development of a steep slope, development within a wellhead protection area, or development within a flood hazard overlay district.
5. To hear and decide site plan approval.
6. To hear and decide right-of-way access.

#### **9.1.5 Procedures of the Development Review Board**

1. The DRB shall elect its own officers and establish rules of procedure consistent with this section and applicable provisions of this Bylaw. All meetings shall be open to the public. In any hearing, there shall be an opportunity for each person wishing to achieve status as an interested person under subsection 4465(b) of 24 VSA to demonstrate that the criteria set forth in that subsection are met, and the panel shall keep a written record of the name, address, and participation of each of these persons. The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Bethel municipal building as a public record. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the DRB, and any action thereof shall be taken by the concurrence of a majority of the full DRB.
2. Fees for the filing of notices of appeal and other acts shall be set by the Selectboard. The payment of such fees shall be a condition for the validity of such filing or act.
3. In connection with any proceedings under this Bylaw, the DRB may examine or cause to be examined any property, maps, books or records bearing upon matters concerned in such proceedings; may require the attendance of any persons having knowledge of the premises; may take testimony and require proof material for its information and may administer oaths or take acknowledgment in respect of such matters. Any of the powers herein granted the DRB may be delegated to its specifically authorized agent or representative.

## **9.2 Notice of Public Hearings**

At least one warned public hearing shall be required for conditional use approval, variances, Administrative Officer appeals, site plan review, Minor Subdivision and Major Subdivision review. Notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. Publication of a notice at the applicant's expense by the Administrative Officer in a newspaper of general circulation in the Town of the date, time, place, and purpose of the hearing; a description of the proposed project; where additional information may be obtained; and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.
2. Posting of the same information by the Administrative Officer in three or more public places within the municipality, including at least the Town Office.
3. Posting of the same information by the applicant on a form provided by the town within view from the public right of way most nearly adjacent to the property for which an application is made. Such outdoors posting shall be posted no closer than 7 feet to the traveled surface. Posting on private property outside the right-of way requires landowner permission. The applicant must provide a signed certificate of posting at the hearing.
4. Mailing or hand delivery by the applicant of a copy of the public posting by first class mail to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The applicant must provide a signed certificate of service at the hearing or return receipts if they choose to use certified mail.
5. Written notification to any neighboring town's clerk if the proposed subdivision is within 500 feet of that town.

If additional hearings are needed for additional information, the first hearing may be recessed to a later date and time specified at the first hearing without requiring new notice. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

Any decision shall be sent by certified mail to the applicant, appellant and other parties in accordance with current Vermont statutes.

## **9.3 Decisions**

Any action or decision of a Development Review Board shall be taken by the concurrence of a majority of the members of the DRB. In accordance with the Act [§4464(b)], the Development Review Board shall issue a decision within 45 days after

the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 9.3.

Within the Floodplain Overlay District, the DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information.

2. In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:
  - a. the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
  - b. a requirement that no Administrative Permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
3. All decisions of a 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 also shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Administrative Officer and Clerk as part of the public record of the municipality.

## **9.4 Appeals**

### **9.4.1 Appeals of the Administrative Officer**

Any action to appeal a decision or act of the Administrative Officer or the Development Review Board shall be in accord with the provision of 24 VSA Sections 4464–4473. Persons contemplating an appeal are advised to consult these sections for precise statutory procedures and requirements.

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

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

#### **9.4.2 Time of Appeal**

Any interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Development Review Board or with the Clerk of the municipality. If the appeal is made with respect to any decision or act of the Administrative Officer, such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer. An interested person may appeal a decision of the DRB to the Environmental Court within thirty (30) days.

#### **9.4.3 Appeal Process**

1. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The DRB shall give public notice of the hearing under Section 9.2 and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
2. The DRB may reject an appeal or request for reconsideration without hearing and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the DRB determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].
3. In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person (see 9.4.4) or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place of the continued hearing shall be announced at the hearing.

4. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45-day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 9.2. Failure of the DRB to issue a decision within this 45-day period shall be deemed approval and shall be effective on the 46th day.

#### **9.4.4 Interested Persons**

The definition of an interested person under the Act [§4465(b)] 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. the Town of Bethel 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 owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

#### **9.4.5 Appeals to Environmental Court**

An interested person who has participated in a proceeding before the Development Review Board may appeal a decision to the Vermont Environmental Court in accordance with current Vermont statutes. Participation in a proceeding shall consist of offering, through oral or written testimony, evidence or statement of concern related to the subject of the proceeding. In the event that a notice of appeal is properly filed, any permit, approval or action shall not take effect until final adjudication of said appeal.



## **9.5 Violations and Enforcement**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Bethel, 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.

Within the Floodplain Overlay District the following additional provisions apply:

1. It shall be the duty of the Administrative Officer to enforce the provisions of this Bylaw under 10 VSA §1974a, 24 VSA §4451 and §4452 in accordance with the Unified Bylaw of the Town of Bethel. A copy of the notice of violation will be mailed to the State National Flood Insurance Program Coordinator.
2. Violations of the Required Agricultural Practices shall be enforced as violations of the municipal Bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

### **9.5.1 Notice of Violations**

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 the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 5.7. The notice shall state that a violation exists, 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.

For violations in the Floodplain Overlay District the following applies:

If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

### **9.5.2 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 if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation

first occurred, and not thereafter, in accordance with the Act [§4454]. 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 under Section 9.2.

## 10. Definitions

Words, phrases, and terms that are not defined within the text of the Bylaw or below shall have their usual and customary meaning, except where the context clearly indicates a different meaning. Any interpretation of words not defined herein by the Administrative Officer may be appealed to the Development Review Board. In such cases, the Board shall base its ruling upon the following definitions, State statute, and the need for reasonable and effective implementation of this Bylaw.

The words and terms used shall be construed as follows:

- The particular controls the general
- The present tense includes the future tense
- Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary
- The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for"
- The words "shall," "must," and "will" are mandatory; the word "may" is permissive
- The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual

Many items are defined below, but this does not necessarily mean they will be regulated under this Bylaw. Please refer to section 2.3 for the types of development that are not regulated.

### 10.1 Terms and Uses

#### 10.1.1 A

**ABANDONED** – A habitable or public structure shall be considered abandoned if, due to neglect or damage, it lacks a roof, walls, windows, plumbing, or any other major component for more than one year, or if it is determined to be unstable by a licensed structural engineer.

**ACCESSORY DWELLING** – See Dwelling, Accessory

**ACCESSORY STRUCTURE/BUILDING** - A structure which is: (1) detached or attached from and clearly incidental and subordinate to the principal use of or structure on a lot, (2) located on the same lot as the principal structure or use, and (3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses. When applied to agriculture, this shall be deemed to include the sale of products raised on the property. (See also Small Accessory Structure.)

**ACCESSORY USE** - A use incidental and subordinate to the principal use and located on the same lot. When applied to agriculture, this shall be deemed to include the sale of products raised on the property.

**ACT, THE:** The Vermont State statute that is the authority for this Bylaw. Full title: Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, et seq.

**ADMINISTRATIVE OFFICER** - The Town official nominated by the Planning Commission and appointed by the Selectboard whose job is to receive and review all zoning permit applications; issue permits for permitted uses and refer conditional use applications and appeals for variance to the DRB.

**AFFILIATED OWNERSHIP** - Properties or buildings owned by the same individual or that individual in partnership with any other person or persons.

**AFFORDABLE HOUSING** - Housing that costs no more than 30% of median county income for the relevant household size.

**ALTERATION** - Structural change, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment.

**AMP (APPROPRIATE MUNICIPAL PANEL)** - A Planning Commission performing development review, a Development Review Board, or a legislative body performing development review.

**APARTMENT BUILDING** – A residential structure containing more than five dwelling units.

**APPLICANT** - The owner of land proposed to be subdivided or his or her representative. Any party with a legal interest in the property may apply in cooperation with the owner of the property.

**APPEAL** - The exclusive remedy of an interested party who wishes to reverse any decision or act of the Administrative Officer or provision of this ordinance or the Town Plan. Appeals are made to the DRB and thence to the Environmental Court under an adverse decision from the DRB.

APPURTENANT – Something subordinate to or belonging to another larger principal entity.

AREA OF SPECIAL FLOOD HAZARD - Is synonymous in meaning with the phrase "special flood hazard area" for the purposes of these regulations.

AS-BUILT DRAWINGS –Drawings that show the exact location of all roads, utilities, curb cuts, structures, and other installed improvements.

### **10.1.2 B**

BANKFULL WIDTH (OR CHANNEL WIDTH) - Is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the "100-year flood").

BASE FLOOD ELEVATION (BFE) - The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

BASEMENT - Any area of the building having its floor elevation below ground level on all sides.

BFE - see Base Flood Elevation

BOARDING HOUSE – a residential building with a dwelling unit occupied by a permanent resident caretaker that also has six or fewer rooms for rent on a long-term basis that may lack individual kitchen facilities, that share common areas, and that may provide meals for tenants.

BUFFER - An undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

BUILDING - Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or goods.

### **10.1.3 C**

**CHANGE IN USE** - A change or increase in the scale, intensity, type of activity, hours of operation, or physical setting of the use.

**CHANNEL** - An area that contains continuously or periodic flowing water that is confined by banks and a stream bed.

**CHANNEL WIDTH (or bankfull width)** - The width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

**CLUSTER DEVELOPMENT** - Is a form of land development in which principal buildings and structures are grouped together on a site, thus saving the remaining land area for common open space, conservation, agriculture, recreation, and public and semipublic uses.

**COMMON PLAN OF DEVELOPMENT** - Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

**CONDITIONAL USE** - A land use permitted in a given zoning district only after a hearing and decision by the DRB (e.g., Site Plan Approval, Steep Slope, and Right of Access).

**COVERAGE** - The percentage of surface area of the lot covered by impervious surfaces, including roofed structures, and parking or roads (paved or gravel).

**CRITICAL FACILITIES** - Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station that survive a flood and now are the only sources for food and gas.

### **10.1.4 D**

**DETACHED HOUSE** - A detached house (e.g., caretaker's house) is a single unit dwelling on the same lot as the principal residence, provided that the living area of the detached house does not exceed 1500 square feet or 50% of the principal residence, whichever is greater.

**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.

**DEVELOPMENT REVIEW BOARD** - The deliberative body, appointed by the Selectboard, which hears and decides appeals and applications for conditional uses, site plan, subdivisions, and variance requests.

**DWELLING, ACCESSORY** - An efficiency or one-bedroom apartment that is clearly subordinate to a single dwelling unit on an owner-occupied lot; is within, attached, or within 50 feet to that single dwelling; meets with all wastewater and water supply rules and permits; does not exceed 900 square feet of living area or 30 percent of the total living area of the single dwelling, whichever is greater; and meets setback and parking requirements.

**DWELLING, SINGLE UNIT** – A dwelling unit as a freestanding building or part thereof, other than an accessory dwelling unit with independent living quarters for one household, including at least one bathroom and kitchen, and not in a motel, hotel, boarding house, tourist home or similar structure.

**DWELLING, MULTI-UNIT** – A residential building containing three to five single dwelling units used as living quarters independently of each other.

**DWELLING, TWO UNIT** - A single residential building containing two single unit dwellings. Synonymous with duplex.

#### **10.1.5 E**

**EASMENT** - The authorization of property owner for the right of a specific use by another party of any designated part of his or her property.

**EXCAVATION** - The removal of earthen or stone material by machinery.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**EXTERIOR STORAGE** - Outside storage of materials, supplies, equipment or vehicles incidental to a commercial use shall be adequately screened from view.

**10.1.6 F**

**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.

**FARMING:** means any of the following -

- a) the cultivation or other use of land for growing food, fiber, Christmas trees,
- b) maple sap, or horticultural, viticultural and orchard crops; or
- c) the raising, feeding or management of livestock, poultry, fish or bees; or
- d) the operation of greenhouses; or
- e) the production of maple syrup; or
- f) the on-site storage, preparation and sale of agricultural products principally
- g) produced on the farm (emphasis added); or,
- h) the on-site production of fuel or power from agricultural products or wastes
- i) produced on the farm; or
- j) the raising, feeding, or management of four or more equines owned or
- k) boarded by the farmer, including training, showing, and providing instruction and
- l) lessons in riding, training, and the management of equines.

**FARM, WORKING:** A farm whose agricultural land and buildings are actively used in a manner that meets the definition of Farming.

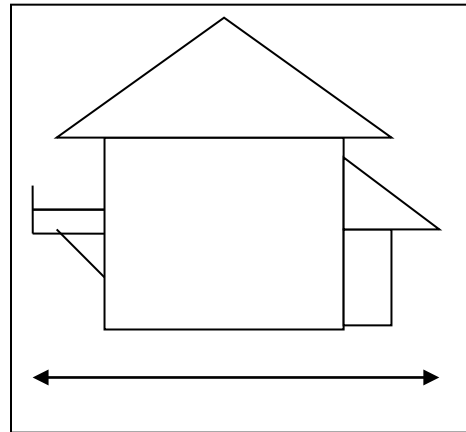
**FENCE** - Except as is incidental to an accepted agricultural practice, any structure or earth berm which has the effect of creating a barrier to visibility or access.

**FILL** - Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

**FIRM** - see Flood Insurance Rate Map

**FOOTPRINT** - The outer horizontal boundaries of the structure's limits, including decks.

**FLOOD** - (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion





or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOOD INSURANCE RATE MAP (FIRM)** - An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

**FLOOD INSURANCE STUDY** - An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**FLOODPLAIN OR FLOOD-PRONE AREA** - Any land area susceptible to being inundated by water from any source (see definition of "flood").

**FLOOD PROOFING** - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panel.

**FLUVIAL EROSION** - Is erosion caused by streams and rivers? Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

**FLUVIAL EROSION HAZARD ZONE** - Includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphically stable channel and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

**FLUVIAL GEOMORPHIC EQUALIBRIUM** - The width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading (down-cutting) the channel bed elevation. When a stream or river is in an equilibrium condition the stream power and erosive process is minimized reducing damage to public and

private infrastructure, reducing nutrient loading, and allowing for bank stability and habitat diversity.

**FUNCTIONALLY DEPENDENT USE** - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**FRONTAGE** - That portion of a lot which is adjacent and parallel to a State highway, Town street, Town road or Town right-of-way. In the case of corner lots, it shall be that portion that has, or is proposed to, have access.

**FRONT SETBACK** - The shortest allowed distance from the center of the traveled portion of the public or private road right-of-way to the nearest portion of the structure's footprint. For corner lots, the same applies to any side bordering the public or private road. When the right-of-way is not easily discernible, the edge shall be deemed to be ½ of the recorded right-of-way's width from the centerline of the traveled road.

**FRONT YARD** - The distance from the centerline of the traveled road to the nearest portion of the building.

#### **10.1.7 G**

**GUEST HOUSE** - A house with no more than six (6) paying guests at one time with thirty (30) days maximum length of stay and serving no regular meals except breakfast to guests. A Guest House is to comply with all state regulations and licensing procedures relating to such facilities.

#### **10.1.8 H**

**HABITABLE** - Intended and acceptable for use as living quarters.

**HAZARDOUS WASTE** - Those substances defined as hazardous waste by the Agency of Natural Resources under Chapter 7 of the Vermont Environmental Protection Rules.

**HISTORIC STRUCTURE** - Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION - Activities conducted within a dwelling or accessory building by the residents thereof, which is clearly secondary to the dwelling's use as living quarters and does not change the character thereof, excluding junk yards and any activity that generates hazardous waste.

#### **10.1.9 I**

IMPOUNDMENT – A body of water held back by a man-made dam or berm.

#### **10.1.10 L**

LAND SUBDIVISION - The dividing of a parcel of land or change in the boundaries, by sale, gift, lease, mortgage foreclosure, court ordered partition, or the filing of a subdivision plat in the Bethel Land Records where the division results in two or more lots within the bounds of the original parcel.

LETTER OF MAP AMENDMENT (LOMA) - A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

LONG-TERM RENTAL – a residential unit for rent on a basis where tenants rent for 30 or more consecutive days.

LOT - A single parcel of land, whether created by lease or deed, usually, but not necessarily always, occupied or to be occupied by a building and its accessory buildings. It must have the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a road, or other means of access as may be determined by the DRB to be adequate as a condition of the issuance of a building permit for building on such land.

A lot includes all contiguous land owned or controlled by the same legal entity regardless of whether acquired at different times or by separate conveyances. Lot also includes that land designated as a lot on a plat that is approved by the Development Review Board under these Regulations and that is duly recorded. A portion of a parcel in a subdivision or plat that is separated from other portions of the parcel by a property line and which has permanent access to a public highway. Land designated as a lot on a plat that is approved by the Development Review Board under this Bylaw and that is duly recorded in the Bethel Land Records.

LOT AREA - The total land area within the boundaries of a lot, exclusive of any land area designated for a public road as measured to the boundary of such right of way or easement.

LOT LINE - A line of record bounding one lot from an adjoining lot or from a Town or State highway right-of-way, rivers or railroad line.

LOT WIDTH - The smallest distance across the lot measured parallel to the frontage side of the lot.

LOWEST FLOOR - The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations (CFR) 60.3.

#### **10.1.11 M**

MANUFACTURED HOME (or Mobile home) - A type of prefabricated housing that is largely assembled in factories, then transported to sites of use. The definition of the term in the United States is regulated by federal law (Code of Federal Regulations, 24 CFR 3280): "Manufactured homes are built as dwelling units of at least 320 square feet (30 m<sup>2</sup>) in size with a permanent chassis to assure the initial and continued transportability of the home." The requirement to have a wheeled chassis permanently attached differentiates "manufactured housing" from other types of prefabricated homes, such as modular homes. The term "manufactured home" does not include a "recreational vehicle". (See also Tiny Home.)

MANUFACTURED HOME PARK OR SUBDIVISION (Mobile Home Park) - A parcel (or contiguous parcels) of land divided into three or more manufactured home lots for rent or sale. This term does not mean premises used solely for storage or display of manufactured homes, nor any parcel of land under the ownership of an agricultural employer who may provide up to four manufactured homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment.

MONUMENT - A metal pipe placed in the ground to delineate property lines.

#### **10.1.12 N**

NEW CONSTRUCTION - For regulation under this Bylaw, means structures for which the start of construction commenced on or after the effective date of this Unified Bylaw adopted by the community and includes any subsequent improvements to such structures.

Within the Floodplain Overlay District, "NEW CONSTRUCTION" also means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

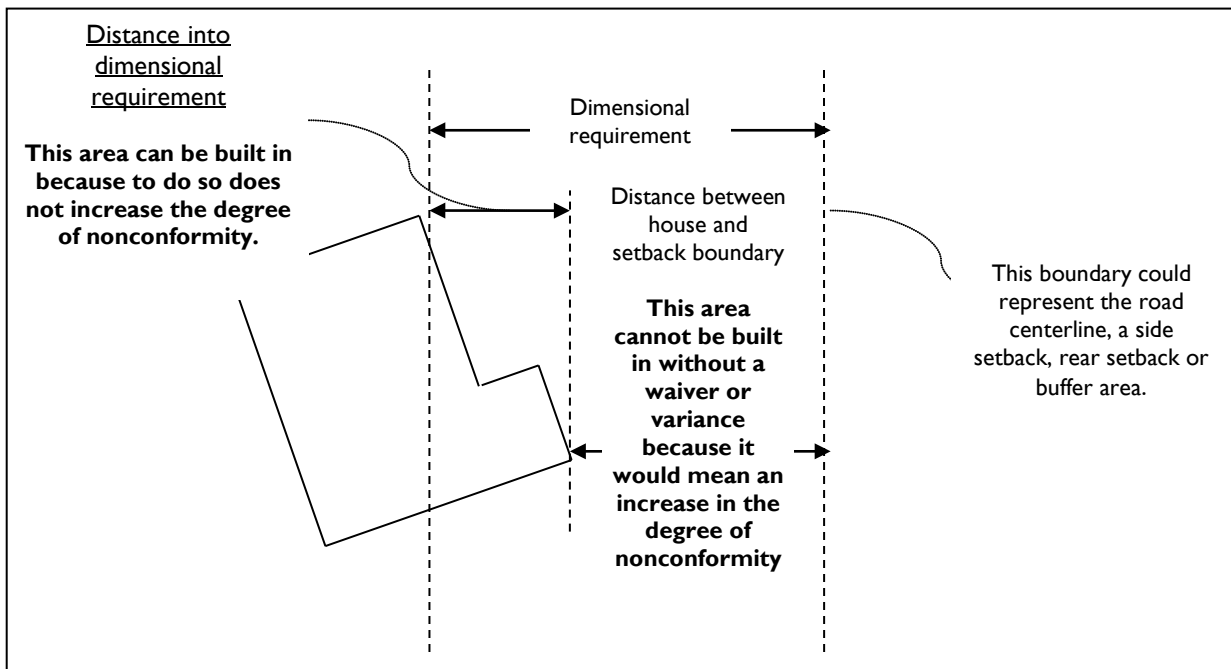
**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**NONCONFORMING 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. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**NONCONFORMING USE** - A 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 use, structure, lot, or parcel.

**NONCONFORMITY, DEGREE OF** - In plain language, the degree of non-conformity is the linear distance that the non-conforming structure protrudes into the setback. (See diagram below.)



**10.1.13 O**

OFF-PREMISE: A sign located on any parcel of land, regardless of ownership, other than that on which the advertising or business referred to is located.

ON-PREMISE SIGN: A sign which contains information relating to the premises on which the sign is located.

ON-SITE SEWAGE DISPOSAL: Sewage disposal on the premises or adjacent properties under same ownership or where an easement for disposal has been secured.

OPEN SPACE - Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities, or parking lots. Land reserved to encourage agriculture, forestry, tourism, and recreation, including hunting and fishing.

**10.1.14 P**

PARCEL - A contiguous area of land under single ownership or controlled by the same legal entity regardless of whether acquired at different times or as separate conveyances; not divided by a public highway, or a stream greater than ten (10) square miles of drainage area as defined in accordance with current Vermont statutes or which has been identified on a plat approved by the Town pursuant to these regulations and duly recorded in the Bethel land records. The "original parcel" is the parcel as it existed on the date of adoption of this Bylaw. Parcel is synonymous with lot.

PARKING SPACE - Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and eighteen feet long, not including access driveway, and having direct access to a street or approved right of way.

PERMITTED USE - A use specifically allowed in a given district, requiring only the granting of a zoning permit by the Administrative Officer.

PLAT - A map or plan drawn to scale of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights.

PLANNED UNIT DEVELOPMENT (PUD) - Area of land under unified control to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, where the arrangement and types of buildings on the parcel do not necessarily conform to the district requirements of this Bylaw, but where the overall density of development does not exceed that which, in the DRB's judgment, could be permitted in the district in accordance with the district regulations of this Bylaw.

PLANNING COMMISSION - The body appointed by the Selectboard for the purpose of preparing the Town Plan, and this Unified Bylaw.

**PRINCIPAL BUILDING** - A dominant building or portion thereof, the use of which is fundamental and superior to any other use of the land or the lot.

**PRINCIPAL USE** - The use dominant on a lot, such use being fundamental and superior to any other use of the land or the lot.

**PUBLIC ROAD** - A highway, street or other way owned by the Town of Bethel or the Vermont Agency of Transportation which exists for vehicular travel. The word "road" shall mean the entire right of way.

**10.1.15 R**

**RECREATIONAL VEHICLE** - A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**RIVER CORRIDOR** - The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. §1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

**ROAD** - A public right-of-way which affords the principal means of access to abutting properties and includes any street, avenue, boulevard, road, alley and any other public right-of-way.

**ROAD, ARTERIAL** - A road designed primarily to carry higher volumes of through traffic at higher speeds, to serve major traffic centers and to interconnect Towns and cross-Town areas. Examples are Route 12, Route 107 and Camp Brook Road.

**ROAD, COLLECTOR** - A road designed primarily to carry some through traffic at medium speed, to serve traffic between arterial and local roads, and to connect adjacent neighborhoods.

**ROAD, MINOR or LOCAL** - A road designed primarily to carry local traffic and to provide access to adjoining properties. The term includes a road in a subdivision serving five or more units or serving non-residential uses.

**ROAD, PRIVATE** - A road in a subdivision serving three or four units.

**10.1.16 S**

**SALVAGE YARD** - Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling material or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs. It does not mean a certified solid waste facility where scrap metal is containerized upon receipt or after refrigerant removal.

**SETBACK, REAR** - Distance between the rear lot line and the nearest portion of the building/structure's footprint.

**SETBACK, SIDE** - Distance between the principle building or accessory building/structure's footprint and a side lot line.

**SHARED DRIVEWAY** - A road in a subdivision serving two units or more.

**SHORT-TERM RENTAL** – a residential unit or room for rent exceeding 14 days per year, but never more than 30 days consecutively to the same resident, which shall constitute a long-term rental.

**SIGNS** - Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

**SIGN, AREA CALCULATION** - The entire area within a circle, triangle, rectangle or parallelogram, enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame, panel or other material or color forming a part of the display to differentiate such a sign from the background against which it is placed; excluding the necessary supports or uprights on which a sign is placed. Where a sign does not include a physical frame or panel, an imaginary frame or panel will be used. Where a sign has two or more faces or panels, the area of all faces or panels shall be included in determining the total area of the sign, except where the two faces or panels are placed back-to-back.

**SIGN, BUILDING** - A sign fastened to or applied on the outdoor wall or window of a building or structure in such a fashion that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure. This term does not include roof signs.

**SIGN, FREESTANDING** - A sign having its own supporting structure, independent of any building.

**SIGN, PROJECTING** - A sign that is wholly or partially dependent upon a building for support and which projects more than twelve (12) inches from such a building.



**SIGN, TEMPORARY** - A sign which is being used for the purpose of advertisement, such as the sale of property, vacancy, auction, candidate, public or civic event; or activities of a similar nature. Such a sign shall be removed within five (5) days of fulfilling its function.

**SLOPE** – The degree of rise over run of land measured in percent.

**SMALL ACCESSORY STRUCTURE** – An accessory structure with a floor area not in excess of 100 square feet and less than 35 feet in height.

**SPECIAL FLOOD HAZARD AREA** - The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area". This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](https://www.msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**START OF CONSTRUCTION** - The "start of construction" includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

**STORAGE** - Box trailers, storage containers, and other trailers used for storage which are parked in compliance with setbacks and are temporary (not exceeding six consecutive months).

**STREAM** - A perennial watercourse, or portion, segment or reach of a watercourse that, in the absence of abnormal, extended or severe drought, continuously conveys surface water flow. Human caused interruptions of flow; i.e., flow fluctuations associated with

hydroelectric facility operations, or water withdrawals, shall not influence the determination. A perennial stream does not include the standing waters of wetlands, lakes, and ponds. Streams are indicated on the Vermont Hydrography Dataset viewable on the Vermont Natural Resources Atlas.

**STRUCTURE** - An assembly of materials for occupancy or use, including a building, manufactured home or trailer, signs, silo, permanently mounted equipment, or wall. For the purposes of this Bylaw, however, a fence, doghouse, playhouse, playset, treehouse, or mailbox shall not be considered a structure if under 100 square feet.

In the Flood Hazard Overlay district, a structure also means a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

**SUBDIVISION** - The dividing of a parcel or change in the boundaries, or interests, by sale, gift or lease, mortgage foreclosure, court ordered partition or the filing of a subdivision plat, for the purpose, whether immediate or future, of sale, lease, or development. The term includes amended subdivisions or re-subdivisions. The term also includes multi-unit residential, commercial development and industrial development. The term does not apply to agricultural leases. It does not apply to a sale or gift of land which adds to an existing contiguous parcel and does not result in the creation of a new separate parcel.

**SUBDIVIDER** - Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development or subdivision as defined in the Regulations. The term shall include an applicant for subdivision approval.

**SUBDIVISION APPROVAL** - Official action taken by the DRB approving a Subdivision Plan application, following a duly noticed public hearing, including a written decision addressing all standards for planning and design as set forth in these Regulations.

**SUBDIVISION, MAJOR** - The division of a parcel existing on the date of adoption of this Bylaw into more than two lots or interests for the purpose, whether immediate or not, of sale, lease, or development; the term includes multi-unit residential, commercial, or industrial development; the dividing of a parcel of land by sale, gift, mortgage foreclosure, court ordered petition, or filing of a subdivision map or plat plan in the Town Land Records where the act of division results in three (3) or more lots within the bounds of the original parcel in existence on the effective date of this amendment. A subdivision shall be deemed to have occurred on the conveyance of the third lot or the filing of a plat in the Town land records, whichever shall occur first. Annexation of land which adds to a contiguous parcel and not resulting in the creation of a new lot is not a major subdivision.

**SUBDIVISION, MINOR** - The division of a parcel existing on the date of adoption of this Bylaw resulting in two lots will be considered minor subdivisions (see 7.6 of this chapter).

**SUBDIVISION PLAN** - A map representing a tract of land, showing the boundaries and location of individual lots, roads, and other improvements as required by these Regulations.

**SUBDIVISION APPROVAL** - Actions taken by the DRB approving a Final Subdivision Plan application following a duly noticed public hearing, such written decision addressing the standards for planning and design as set forth in Chapter 7 of this Bylaw.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this Bylaw, the cost of which, over three years, or the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**SUBSTANTIALLY COMPLETE** – A structure is substantially complete when it has all of the permitted conditions satisfied, has all major components in place (foundation, roof, siding, windows, electrical, plumbing, heating) and is usable for its intended use. For new construction or permitted renovation, this includes a filing of a certificate that the structure meets the Residential Energy Standards (RES) or Commercial Building Energy Standards (CBES) as applicable. If a Certificate of Occupancy (CO) is required, then being substantially complete is synonymous with satisfying all of the conditions for a CO to be issued.

**SURROUNDING AREA** – For the purposes of this bylaw, “surrounding area” is the area within a ¼ mile radius of a proposed development.

#### **10.1.17 T**

**TINY HOME** - For the purpose of these regulations, a type of housing under 400 square feet of footprint on a foundation will be treated like any other dwelling unit (accessory or otherwise), but if it is on wheels, it will be classified as a recreational vehicle.

**TOP OF BANK** – That vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys, it is the point where the stream is generally

able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

**10.1.18 V**

VARIANCE – A Permit issued in deviation from any provision of this Bylaw after an appeal, public hearing, and approval by the DRB based on the standards set forth in section 8 of this document.

VIOLATION - The failure of a structure or other development to be fully compliant with this Bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**10.1.19 W**

WALKOUT-ON-GRADE BASEMENT - A basement whose floor is at ground level on at least one side of the house, usually with a door on that side. This is considered the lowest floor as defined by these regulations.

WETLANDS - Wetlands are defined as those areas that are inundated by surface or ground water with a frequency sufficient to support plants and animals that depend on saturated or seasonally saturated soil conditions for growth and reproduction. These areas are commonly known as ponds, bogs, fens, marshes, wet meadows, shrub swamps, and wooded swamps. In the Vermont landscape, wetlands often occur in association with lakes, ponds, rivers, and streams, but they may also be isolated from any obvious connection to surface water. For the purpose of this Bylaw, wetlands shall be identified by the Vermont Significant Wetlands Inventory (VSWI) d by the Agency of Fish and Wildlife unless special identification has been undertaken by a trained professional.

## Appendix A: Minimum Road Frontage Chart

LOT SIZE (ACRES)	LOT SIZE (FEET <sup>2</sup> )	MINIMUM FRONTAGE (FT)	THEORETICAL DEPTH (FT)	FRONTAGE DEPTH
0.5	21780	85.21	255.62	0.33
1	43560	120.5	361.5	0.33
1.5	65340	147.58	442.74	0.33
2	87120	170.41	511.23	0.33
2.5	108900	190.53	571.58	0.33
3	130680	208.71	626.13	0.33
3.5	152460	225.43	676.3	0.33
4	174240	241	722.99	0.33
4.5	196020	255.62	766.85	0.33
5	217800	269.44	808.33	0.33
5.5	239580	244.73	978.94	0.25
6	261360	255.62	1022.47	0.25
6.5	283140	266.05	1064.22	0.25
7	304920	276.1	1104.39	0.25
7.5	326700	285.79	1143.15	0.25
8	348480	295.16	1180.64	0.25
8.5	370260	304.24	1216.98	0.25
9	392040	313.07	1252.26	0.25
9.5	413820	321.64	1286.58	0.25
10	435600	330	1320	0.25
10.5	457380	338.15	1352.6	0.25
11	479160	346.11	1384.43	0.25
11.5	500940	353.89	1415.54	0.25
12	522720	361.5	1445.99	0.25
12.5	544500	368.95	1475.8	0.25
13	566280	376.26	1505.03	0.25
13.5	588060	383.43	1533.7	0.25
14	609840	390.46	1561.85	0.25
14.5	631620	397.37	1589.49	0.25
15	653400	404.17	1616.66	0.25
15.5	675180	410.85	1643.39	0.25
16	696960	417.42	1669.68	0.25
16.5	718740	423.89	1695.57	0.25
17	740520	430.27	1721.07	0.25
17.5	762300	436.55	1746.2	0.25
18	784080	442.74	1770.97	0.25
18.5	805860	448.85	1795.39	0.25
19	827640	454.87	1819.49	0.25
19.5	849420	460.82	1843.28	0.25
20	871200	466.69	1866.76	0.25
20.5	892980	472.49	1889.95	0.25
21	914760	478.22	1912.86	0.25
21.5	936540	483.87	1935.5	0.25
22	958320	489.47	1957.88	0.25
22.5	980100	495	1980	0.25

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23	1001880	500	2001.88	0.25
All lots over twenty-three (23) acres shall have a minimum road frontage of five hundred (500) feet.				