

Town of Cornwall

Land Use and Development Regulations

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ARTICLE 1: AUTHORITY AND PURPOSE

SECTION 101: ENACTMENT

1. In accordance with the Vermont Planning and Development Act 24 V.S.A., Chapter 117, Section 4401(c), hereinafter referred to as the “Act”, there is hereby established Land Use and Development Regulations for the Town of Cornwall (the “Town”) which are set forth in the text and map below. These regulations shall be known and cited as the “Town of Cornwall Land Use and Development Regulations ” and referred to herein as “these Regulations”.

SECTION 102: INTENT AND PURPOSE

1. It is the intent of these Regulations to provide for orderly community growth and to further the purposes established in 24 V.S.A. § 4302. The Planning Commission has prepared these Regulations to further the goals and policies outlined in the Cornwall Town Plan and:
 - a. To ensure that development conforms to the policies set forth in the Town of Cornwall's Town Plan. The Commission will refer to the goals, objectives and policies, recommendations and capacities of public services as established by the Town Plan in making discretionary decisions and requiring modifications in subdivision proposals.
 - b. To ensure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, and present and potential uses of land as identified in the maps and text of the Town Plan.
 - c. To preserve the natural ecology of the town and protect native and resident plant and animal species by considering the impact of development on their environment.
 - d. To ensure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time are hereinafter enacted, including but not limited to Health Ordinance, Official Map and Capital Program.
 - e. To protect and provide for the health, safety, and general welfare of the Town of Cornwall, its property owners and its inhabitants.
 - f. To guide the future growth and orderly development of the Town and to ensure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.
 - g. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
 - h. 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 and within developments; and the preservation of land values and an adequate tax base.
 - i. To encourage development that uses energy efficiently.

- j. To provide for public facilities and services such as parks and open spaces, recreation areas, schools, police and fire protection, off-street parking, and water supply and sewage disposal.

SECTION 103: AMENDMENTS

1. These Regulations may be amended according to the requirements and procedures established in 24 V.S.A. §§ 4441 and 4442.
2. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the appropriate municipal body shall review any new application filed for compliance with the proposed amendment and applicable existing regulation. If the new regulation or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed regulation or amendment is rejected, the application shall be reviewed under all applicable provisions of these Regulations [§4449(d)].

SECTION 104: REPEAL OF FORMER BYLAWS

1. The Zoning Regulations and Zoning Map of the Town of Cornwall enacted March 3, 1987 and subsequently amended, most recently, on February 5, 2008, and the Subdivision Regulations, adopted February 5, 2008 currently in effect are hereby repealed, and replaced in their entirety, by these Regulations as of its effective date.

SECTION 105: INTERPRETATION

1. In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
2. Except where these Regulations specifically provide to the contrary, these Regulations are not intended to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued, provided however, that where these Regulations impose a greater restriction upon the use of a structure or land than are required by any other statutes, ordinances, rule, regulation, permit easement, or agreement, the provisions of these Regulations shall control.

SECTION 106: EFFECTIVE DATE

These Regulations or amendments thereto shall take effect in accordance with the voting and other procedures contained in 24 V.S.A. § 4442.

SECTION 107: SEVERABILITY

The amendment, repeal or invalidity of any provision of these Regulations shall not invalidate any other part.

ARTICLE 2: ZONING DISTRICT REGULATIONS

SECTION 201: ESTABLISHMENT OF ZONING DISTRICTS

1. Pursuant to § 4414(1) of the Act, Cornwall is hereby divided into the following zoning districts as shown on the Zoning Map:
 - a. Village (V)
 - b. Rural Neighborhood (RN)
 - c. Agricultural Residential (AR)
 - d. Special Features Overlay (SFO)
 - e. Wellhead Protection Area Overlay (WPAO)
 - f. Flood Hazard and Fluvial Erosion Overlay (FHFE0)

SECTION 202: ZONING MAP

1. The location and boundaries of zoning districts are established as shown on the Zoning Map recorded in the Cornwall Town Clerk's office. A non-official reproduction is included herein for convenience only. The Zoning Map is hereby made a part of these Regulations and a part of all future amendments to these Regulations.

SECTION 203: INTERPRETATION OF DISTRICT BOUNDARIES

1. Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty feet into the more restricted part provided the lot has frontage on a street in the less restricted district.
2. If uncertainty exists with respect to the boundary of any zoning district on the Zoning Map, the Planning Commission shall determine the location of such boundary based on the following rules:
 - a. boundaries indicated as following roads, railroad or utility rights-of-way shall be interpreted to follow the centerlines of such features;
 - b. boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features;
 - c. boundaries indicated as following shorelines shall be interpreted as the normal mean water level. In the event of change in the shoreline the boundary shall move with the shoreline;
 - d. boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary as it existed as of the effective date of the zoning map as adopted;
 - e. boundaries indicated as following contour lines shall be interpreted to follow a constant, specified elevation as measured from mean sea level or other accepted reference datum;
 - f. boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.

SECTION 204: ZONING DISTRICTS – GENERAL STANDARDS

1. Permitted uses of land and structures within Cornwall, and uses permitted subject to conditional use review, are established for each zoning district in this Article 2. For uses and structures exempt from these regulations, see Sections 210.6.e and 602 of these regulations. Even though exempt, certain uses, like farm structures, may require that a permit application be filed with the Zoning Administrator to ensure that they qualify for an exemption. Also, other “governmental and community” uses, by statute, may only be regulated as to certain design or site planning elements. Any land development within the town, other than development allowed by these regulations, shall be deemed prohibited and shall be subject to all penalties and remedies described in Sections 210.8.h and 512 of these regulations.
2. All uses of land and structures listed in this Article must adhere to the general and specific standards outlined in Articles 3 and 4, as applicable, as well as the general and specific standards outlined for each district.

SECTION 205: VILLAGE (V)

1. **Purpose.** Cornwall Village and West Cornwall Village comprise the town’s Village District and serve as the historic and traditional town centers for the community. The villages are critical to the town’s identity as they provide a distinct visual setting that has defined the community for decades. This district allows residential and business uses that support the function of a village center and contribute to or are compatible with the existing character and development pattern. Developments that provide public gathering places, promote community interaction or strengthen Cornwall’s sense of community constitute a priority in this district. Large or franchise retail operations, strip development, and architecture that is out of scale or character with the village will not be allowed. Adaptive reuse of buildings for public use is supported over new construction or demolition of existing buildings. Future development should be compatible with the architectural character and existing settlement patterns and support a range of housing options.

2. **Permitted Uses.**

- a. By Right Uses:

Accessory apartment	Multiple-family dwelling (< or = 4
Accessory structure	units/structure or conversion of existing
Accessory use (Existing building or new building	structure)
< 1,500 sq. ft.)	One-family dwelling
Bank, no drive-thru	Professional and business office (< or = 2,500
Bed & Breakfast (< 5 BR for rent)	sq. ft)
Family child care home	Retail store (< or = 2,500 sq. ft.)
Group residential care home	Short-term rental housing
Home occupation	Telecom antenna (Mounted on existing
Mobile Food Truck	structure)
	Two-family dwelling

Uses subject to 24 V.S.A § 4413 (a)

b. Conditional Uses:

Bank (No drive-thru)	Recreation, indoor
Bed & Breakfast (> or = 5 BR for rent)	Recreation, outdoor
Club	Renewable energy systems
Child care facility	Residential care facility
Dormitory	Restaurant (No drive-thru)
Educational facilities	Retail store (>2,500 sq. ft.)
Event venue	Rural enterprise
Home industry	Senior living facility
Multiple-family dwelling (>4 units/structure)	Worker housing
Motor vehicle sales facility	Veterinary clinic
Motor vehicle service station (No fuel)	
Nursery	Other uses with impacts similar to those noted
Professional and business office (>2,500 sq.ft.)	above that do not significantly change the
Personal services	character of the area

c. Not Allowed.

Abattoir	Motor vehicle fuel station
Campground	Nightclub
Contractors yard	Personal landing area
Enclosed manufacturing and light industry (within existing building)	Telecom tower
Kennel	Salvage yard
	Earth extraction

3. **Dimensional Requirements.**

Lot Area Minimum: 1 acre	Side Yard Minimum: 15 feet
Lot Frontage Minimum: 100 feet	Building Height Maximum: 35 Feet
Lot Depth Minimum: 200 feet	Lot Coverage Maximum: 25% on parcel less
Front Yard Setback Minimum: 35 feet	than 1 acre; 15% on parcel less than 3 acres;
Rear Yard Minimum: 25 feet	10% on parcels of 3 acres or greater

4. **Specific Standards.** In addition to the standards and other applicable requirements located elsewhere in these bylaws (e.g., overlay districts, general regulations, conditional use criteria, site plan review or planned unit development review), all uses permitted in the Village (V) District are subject to the following standards specific to development only within the Village (V) District. These standards are intended to assist the Zoning Administrator, DRB, property owners, and developers with the preliminary planning, design, and evaluation of proposals and approval of projects. The applicant assumes the burden of proof to demonstrate how a

proposed design meets the standards and determination will be made by the Zoning Administrator and/or DRB.

a. Historic Character.

- (1) Building design. In the Village District, the applicant should demonstrate how the structure they are proposing fits within and adds to the historic character of the area in which it is proposed.
 - A. Historic structures should be renovated and reused, including any significant architectural features such structures may exhibit. Renovations and re-use may include adaptive renovations, but the burden shall be on the applicant to demonstrate why any significant features (windows, roofing, cornices, doors, siding) are being concealed or eliminated.
 - B. New development and redevelopment shall be compatible in design, scale, mass, height, form and architectural features with existing historic structures and patterns of the district. Buildings need not be replicas of 19th century architecture, but should complement the features of neighboring historic architecture.
 - C. The mass of new buildings shall not distract from historic buildings of civic or cultural significance within the Village.
- (2) Windows, doors and porches shall be similar in size and shape to those found historically facing the street.
- (3) Additions to a historic building shall be designed to preserve, as much as possible, the original scale and overall character of the structure as well as the district. This can be accomplished by:
 - A. Scale the addition as a complementary and subordinate mass to the main building mass.
 - B. Place the addition on a side or rear elevation so as not to detract from the main building's cadence with adjacent buildings.
 - C. Typically, an addition should be stepped back from the existing building's face (not on the same wall plane.)
 - D. Typically, an addition should have a lower roof line than the existing building (examples of exceptions might be a cupola or a tower as appropriate for the existing architecture.)
 - E. If an addition is proposed for the front face of the existing main building, it must be of a scale insignificant enough so as not to detract from the existing main building mass and its cadence with adjacent buildings (examples might be a covered entry or a sun porch.)
- (4) Substantial historic architectural details on existing structures, including but not limited to columns, dormers, porches and bay windows, should be maintained, repaired, rehabilitated or restored in their original form. Where reconstruction of an historic architectural detail is impossible because of a lack of historical evidence, then a new design must relate to the building in general size, scale and material.
- (5) Demolition of any building or accessory structure, which contributes to the historic or architectural significance of the Village District, should not occur unless public health and safety require the removal of the building or structure. Demolition may be considered if the building does not contribute to the historic or architectural character of the district as determined by the DRB. If acceptable alternatives are not possible, the following must be met:
 - A. Circumstances and condition of the structure should be evaluated by a qualified professional.

- B. The physical and economic feasibility is part of the decision to approve a demolition. Comparable rehabilitated structure values and rehabilitation cost vs. new redevelopment cost shall be provided for consideration.
 - C. The DRB has up to 90 days to find acceptable alternatives to the demolition, if it feels that it is physically and economically feasible.
- (6) Demolition of any original feature or part of a historic building shall be avoided. Where reconstruction of an element is impossible because of a lack of historical evidence, then a new design that relates to the building in general size, scale and material may be considered.
- (7) In the event of demolition, new buildings must be compatible in mass, form and scale with the existing historic structure or character of the district. This includes setbacks, building heights, and other requirements outlined in these standards.
- b. Siting, Design and Lot Layout. The following standards are recommendations for single and multi-family dwellings and requirements for non-residential uses.
 - (1) Buildings, and associated site design, shall reinforce rather than disrupt a defined streetscape and development pattern by:
 - A. Being located as close to the road as practical, with buildings oriented to front on the road.
 - B. Place parking lots behind the building. Buildings, along with trees, landscaping, and other site furnishings, shall be predominant along streets, rather than parking lots.
 - C. Maintain building heights similar to those seen historically on any given lot. For undeveloped lots, no building shall be less than two stories.
 - D. Significant areas of blank wall are not allowed at the front of the building or along a road right of way.
 - E. Where the placement of a building along the front setback is not practical due to pre-existing site conditions, the site plan should incorporate landscaping features, such as low walls and planting materials, along the setback line to create a transition between the public right-of-way and the site.
 - (2) All proposed non-residential single-story buildings must get a waiver from the DRB to determine if it meets the definition/purpose of the district.
 - (3) Residential uses are allowed and encouraged on the second-floor and above.
 - (4) When there is a strong or dominant roof shape in an area, proposed new construction or alterations shall be compatible with existing buildings in that area. Flat roofs are not appropriate and should be used only in areas where it is suitable to the context.
 - (5) Lot layout shall reinforce and contribute to logical and connective street and pedestrian networks.
 - (6) The streetscape shall include meaningful spaces for pedestrians that draw them in and provide site furnishings, such as benches, tables, bicycle racks and other pedestrian amenities made of durable, weather-resistant and vandal-resistant materials.
 - (7) The choice of materials can help to express a building's architecture. Selecting materials that fit within the context of the site and surroundings is recommended. An example of this would be to use brick when this material is present in adjacent buildings or sites.

- (8) Rooftop equipment and fixtures should be concealed from eye-level view from the public right of way and from the ground level of adjacent properties. In addition, they should be visually minimized with painted colors and finish complementary to the overall building design.
 - (9) Mechanical equipment on the ground shall be screened from view with wing walls, fencing, landscaping, or a combination thereof. Screening shall be integral and consistent with the overall design of the building and the landscape. At a minimum, screening materials shall include materials of the same type, quality, color and character as the principal materials of the building or landscape.
 - (10) Fencing shall not dominate the buildings or landscape. Walls and fences shall harmonize with the site and the buildings on it in scale as well as in materials. Barbed wire and security fencing (razor-wire, concertina wire) are prohibited. Preferred fence materials include wood, stone, masonry and/or decorative metals.
 - (11) Existing vegetation shall be retained as much as possible. The preservation of healthy, mature plant species is recommended.
 - (12) New development fronting on public streets shall provide street tree plantings, landscape buffer, and/or other landscaping elements that incorporate planters or containers to provide areas for shrubs, perennial and annual plantings. Such vegetation shall be harmonious with and blend with existing landscape elements in the area.
 - (13) The use of Vermont native or naturalized species with proven performance and hardiness is required. Plants and species need to be resistant to salt and other pollutants.
 - (14) All lighting shall be glare-free and shielded from the sky and adjacent residential properties and structures, either through exterior shields or through optics within the fixture, to include “cut-off” technology that controls light spread. Where necessary, additional landscaping may be required by the DRB to provide light screening between a non-residential project and abutting residential properties to help prevent light trespass.
- c. PUD Standards. In addition to the standards set forth in Section 609, PUDs located within the Village (V) District shall meet the following standards. In the event that one of the standards under this subsection is in conflict with a standard under Section 609, the standards set forth below shall apply.
- (1) Utility Siting: All utilities will be placed underground.
 - (2) Access and Traffic Impacts: Special consideration shall be given to proposed access on VT Route 30 and Route 74 and the potential impacts of increased traffic volume with the Villages.
 - (3) Parking: Parking shall be designed to incorporate and maximize the use of parallel or angled on-street parking and shared parking areas. Parking areas, with the exception of on-street parking and driveways serving single-family dwellings, shall be located to the side or rear of buildings and shall be screened from view of adjacent roads and properties.
 - (4) Pedestrian Networks: Safe pedestrian connections to on-site parking areas, and to existing or planned pedestrian facilities located on adjacent properties and/or along public roads, shall be provided. Access points at property edges shall be coordinated with existing and planned development to provide pedestrian connections between uses.

- (5) **Street Trees:** Parcels that front upon Route 30, Route 74, North Bingham Street and South Bingham Street shall incorporate street trees along the highway frontage to establish a canopy and provide traffic calming.
- (6) **Landscaping:** Landscaping shall be designed to emphasize the screening of parking areas and the establishment and the reinforcement of a roadside tree canopy along roads and driveways.
- (7) **Building Orientation:** Buildings shall front toward and relate to streets, both functionally and visually, and not be oriented toward parking lots. The front facade shall include one or more pedestrian-scaled entry-ways.
- (8) **Garages and Accessory Structures:** Garages and other accessory structures shall not be the dominant feature viewed from the street.
 - A. Front-loading (entrance facing street) garages shall be set back from the front building line a minimum of six feet from the front façade of the dwelling and shall not comprise more than 40% of the total front facade.
 - B. Side-loading garages (entered from the side yard) visible from the street must have some architectural treatment facing the street, such as a window or door.

SECTION 206: RURAL NEIGHBORHOOD (RN)

1. **Purpose.** This district contains residential development mixed with agricultural uses and should remain primarily residential and agricultural. To maintain the town's rural character, this area should retain open lands for conservation and recreational purposes. The District allows future residential development that will extend the existing settlement pattern, lot configuration and architectural character. Existing public uses within this district should continue to be supported and, if needed, expanded to the extent that they do not negatively impact the residential character of the area. Development of further public uses, with the exception of recreation and appropriate town facilities, are discouraged in order to guide public uses into the villages.
2. **Permitted Uses.**
 - a. By Right Uses.

Accessory apartment	Multiple-family dwelling (< or = to 4
Accessory structure	units/structure or conversion of existing
Accessory use (Existing building or new building	structure)
< 1,500 sq. ft.)	Short-term rental housing
Family child care home	Telecom antenna (Mounted on existing
Home occupation	structure)
Group residential care home	Two-family dwelling
One-family dwelling	Uses subject to 24 V.S.A § 4413 (a)
Mobile Food Truck	

b. Conditional Uses.

Abattoir	Recreation, indoor
Bed & Breakfast (< 5 BR for rent)	Recreation, outdoor
Bed & Breakfast (> or = 5 BR for rent)	Renewable energy system
Campground	Residential care facility
Club	Restaurant (No drive-thru)
Contractors yard	Retail store (< or = 2,500 sq. ft.)
Child care facility	Retail store (>2,500 sq. ft.)
Dormitory	Rural enterprise
Home industry	Senior living facility
Educational facilities	Veterinary clinic
Event venue	Worker housing
Multiple-family dwelling (> 4 units/structure)	
Outdoor recreational facility	Other uses with impacts similar to those noted
Nursery	above that do not significantly change the
Professional and business office (< or = 2,500 sq. ft)	character of the area as envisioned in the
Professional and business office (>2,500 sq.ft.)	Cornwall Town Plan.

c. Not Allowed.

Bank (No drive-thru)	Motor vehicle service station (No fuel)
Enclosed manufacturing and light industry (within existing building)	Nightclub
Kennel	Salvage yard
Motor vehicle fuel station	Earth extraction
Motor vehicle sales facility	Telecom tower

3. **Dimensional Requirements.**

Lot Area Minimum: 2 acres	Side Yard Minimum: 50 feet
Lot Frontage Minimum: 250 feet	Building Height Maximum: 35 feet
Lot Depth Minimum: 250 feet	Lot Coverage Maximum: 10% on parcels
Front Yard Minimum: 75 feet	less than 4 acres; 5% on parcels of 4 acres
Rear Yard Minimum: 50 feet	or greater

4. **Specific Standards.** In addition to the standards and other applicable requirements located elsewhere in these bylaws (e.g., overlay districts, general regulations, conditional use criteria, site plan review or planned unit development review), all uses permitted in the Rural Neighborhood (RN) District are subject to the following standards specific to development only within the RN District. These standards are intended to assist the Zoning Administrator, DRB, property owners, and developers with the preliminary planning, design, and evaluation of proposals and approval of projects. The applicant assumes the burden of proof to

demonstrate how a proposed design meets the standards and determination will be made by the Zoning Administrator and/or DRB.

- a. New development should be consistent with the predominantly agricultural and rural character of these areas.
- b. New development shall effectively integrate with the existing scenic and open views along major transportation corridors especially Routes 30 and 125, which are gateways into Cornwall.
- c. Allow for natural re-vegetation where possible or applicable.
- d. Maintain the integrity of existing woodlands, buffers and mature vegetation on site, particularly along roadsides and critical view corridors.
- e. Provide or maintain sufficient vegetative buffers between properties.
- f. Maintain/protect existing natural drainage patterns and swales.
- g. Design buildings to fit the character of the site with attention given to mass and scale. The size and proportions of new structures shall also relate to the scale of adjacent buildings.
- h. Apply access management principals to ensure safety of the highway.
- i. Development proposals that include new roads and driveways of greater than 800 feet require conditional use review under Section 607. The DRB may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road.
- j. On subdivision of 2 or more lots, and where possible, provide for shared driveway access to ensure the minimum amount of tree removal necessary for constructing within a delineated building envelope.
- k. Consider new accessory structures for year-round rental or affordable housing on the side or rear of lot.
- l. Encourage new infill development to be located to the side or rear of existing residences or dwellings.
- m. For PUDs, provide space adjacent to roadways or off-road for existing and new trail networks.
- n. Traffic calming elements shall be encouraged.

SECTION 207: AGRICULTURAL RESIDENTIAL (AR)

1. **Purpose.** This district encompasses most of the western half of the Town, where agriculture continues as one of the primary existing land use. Consequently, one of the primary objectives of this district is to preserve and encourage agricultural use. Existing residential uses will be supported and future residential development encouraged to locate away from agriculturally viable land and environmentally sensitive areas, with a preference for low density or clustered residential development. Business uses within this area will continue to be primarily home-based businesses, including those that are based out of buildings on the property other than the residence. Agricultural-related businesses or adaptive reuse of existing buildings is encouraged. Public uses, with the exception of recreation and appropriate town facilities, should not be encouraged in this district, in order to guide such uses into the villages.
2. **Permitted Uses.**
 - a. *By Right Uses.*

Accessory apartment	Multiple-family dwelling (< or =4 units/structure or conversion of existing structure)
Accessory structure	One-family dwelling
Accessory use (Existing building or new building < 1,500 sq. ft.)	Short-term rental housing
Family child care home	Telecom antenna (Mounted on existing structure)
Group residential care home	Two-family dwelling
Home occupation	Uses subject to 24 V.S.A § 4413 (a)
Mobile Food Truck	

b. Conditional Uses.

Abattoir	Recreation, indoor
Bed & Breakfast (> or = 5 BR for rent)	Recreation, outdoor
Bed & Breakfast (< 5 BR for rent)	Renewable energy system
Campground	Residential care facility
Club	Restaurant (No drive-thru)
Contractors yard	Rural enterprise
Child care facility	Earth extraction
Dormitory	Short-term rental housing
Educational facilities	Senior living facility
Enclosed manufacturing and light industry (within existing building)	Personal landing area
Event venue	Veterinary clinic
Home industry	Worker housing
Kennel	Telecom tower
Multiple-family dwelling (> 4 units/structure)	Other uses with impacts similar to those noted above that do not significantly change the character of the area as envisioned in the Cornwall Town Plan
Nursery	
Professional and business office (< or = 2,500 sq. ft)	

c. Not Allowed.

Bank (No drive-thru)	Professional and business office (> 2,500 sq. ft.)
Motor vehicle fuel station	Salvage yard
Motor vehicle sales facility	Retail store (< or = 2,500 sq. ft.)
Motor vehicle service station (No fuel)	Retail store (> 2,500 sq. ft)
Nightclub	

3. **Dimensional Requirements.**

Lot Area Minimum: 4 acres	Front Yard Minimum: 75 feet
Lot Frontage Minimum: 300 feet	Rear Yard Minimum: 50 feet
Lot Depth Minimum: 300 feet	Side Yard Minimum: 50 feet

Building Height Maximum: 35 feet

Lot Coverage Maximum: 10% on parcels of >1 acres
to <4 acres. 25% on parcels <1 acre

4. **Specific Standards.** In addition to the standards and other applicable requirements located elsewhere in these bylaws (e.g., overlay districts, general regulations, conditional use criteria, site plan review or planned unit development review), all uses permitted in the Agricultural Residential (AR) District are subject to the following standards specific to development only within the AR District. These standards are intended to assist the Zoning Administrator, DRB, property owners, and developers with the preliminary planning, design, and evaluation of proposals and approval of projects. The applicant assumes the burden of proof to demonstrate how a proposed design meets the standards and determination will be made by the Zoning Administrator and/or DRB.
- a. Since the rural character of these lands depends on open space and natural areas, protection of these features should be considered when siting buildings and development.
 - b. New development shall effectively integrate with the existing scenic character and open views along major transportation corridors especially Routes 30, 74 and 125, which are gateways into Cornwall.
 - c. When locating structures, roads, driveways, utility corridors and rights-of-way, one or more of the following should be employed:
 - (1) Place improvements along hedgerows, wooded edges and/or nearby developed areas. If not possible, place improvements in a manner that minimizes encroachment in wooded areas and open fields, and below ridgelines.
 - (2) Follow existing contours, roads, tree lines, and stone walls.
 - (3) Share roads, driveways, utility corridors and rights-of-way.
 - (4) Place developments and subdivisions close to roads.
 - (5) Follow established settlement patterns.
 - d. Underground utilities shall be buried at a sufficient depth so as not to interfere with agricultural operations on viable land.
 - e. Locate development such that it will not conflict with existing agricultural uses in the area, and provide adequate buffers between potentially conflicting uses.
 - f. Protect those areas which are used for agriculture; the protection of prime agricultural soils is of top concern.
 - g. Large contiguous open space will be protected for farming and pockets of housing will occur in less productive areas.
 - h. Create an efficient use of land that results in cluster development, small networks of utilities and roads, and large sections of unfragmented land.
 - i. Allow for natural re-vegetation where possible or applicable.
 - j. Maintain the integrity of existing woodlands, buffers and mature vegetations on site, particularly along roadsides and critical view corridors.
 - k. Provide or maintain sufficient vegetative buffers between properties.
 - l. Maintain/protect existing natural drainage patterns and swales.
 - m. Design buildings to fit the character of the site with attention given to mass and scale.

- n. Apply access management principals to ensure safety of the highway.
- o. Development proposals that include new roads and driveways of greater than 800 feet require conditional use review under Section 607. The DRB may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road.
- p. On subdivision of 2 or more lots, and where possible, provide for shared driveway access to ensure the minimum amount of tree removal necessary for constructing within a delineated building envelope.
- q. Maintain or establish adequate buffers around sensitive environmental or aesthetic resources.
- r. Employ narrower driveway/road cuts and road widths to reduce runoff and retain landscape and aesthetic character.
- s. Consider new accessory structures for year-round rental or affordable housing on the side or rear of lot.
- t. For PUDs, provide space adjacent to roadways or off-road for existing and new trail networks.

SECTION 208: SPECIAL FEATURES OVERLAY (SFO)

1. **Purpose and Applicability.** Pursuant to §4414(2) of the Act, Cornwall has identified special areas or features in town that require an additional level of review due to their environmental and aesthetic function and value. Regulations have been established for the Special Features Overlay district which specify what additional information is needed at the time of submittal, and/or what special development standards must be met by development within the overlay district. The regulations for the SFO shall be regarded as supplementary to the regulations of any underlying, basic district(s). When the regulations of the overlay district and the basic district conflict, the more restrictive provision shall apply. The areas requiring special consideration under the SFO include:
 - a. Wetlands
 - b. Riparian areas
 - c. Steep slopes
 - d. Ecologically significant sites and priority forest and connectivity blocks
 - e. Prime agricultural soils
2. **Wetlands.**
 - a. *Intent.* To protect the functions and values that wetlands provide such as water storage, water quality protection, erosion control, fish and wildlife habitat, habitat for sensitive plants and animals, exemplary natural communities, education and research, recreation and economic benefits, and open space.
 - b. *Applicability.* These regulations apply to all land use and development occurring within a wetland or its associated buffer zone. For these regulations, the definition of a wetland, as well as the types of wetlands actually regulated, shall be the same as the State of Vermont Wetland Rules, adopted under the authority of the Secretary of Natural Resources (Secretary) pursuant to 10 V.S.A. § 905b(18). For the purposes of these regulations, wetlands include all lands located within the perimeter of, or contiguous to wetlands identified on the Vermont Significant Wetlands Inventory (VSWI) maps published by the Vermont Agency of Natural Resources, and as shown on the Town of Cornwall's Special Features Overlay

Map 1. The maps should not be relied upon to provide precise information regarding the location or configuration of wetlands, especially the location of Class III wetlands, which are not consistently mapped. The VSWI and SFO maps are intended to denote the approximate location and configuration of significant wetlands. The actual boundaries of wetlands shall be delineated by a professional wetlands scientist and in accordance with the current guidelines of the Army Corps of Engineers. The need for a wetlands delineation will be determined during pre-application review.

- c. Supplemental Standards. All development and subdivisions proposed within wetlands and their buffer zones are subject to the following supplemental standards:
- (1) In accordance with the Vermont Wetland Rules, soil disturbance and structures are prohibited within a one hundred (100) foot buffer zone contiguous to the boundaries of a Class One wetland and within a fifty (50) foot buffer zone contiguous to the boundaries of all other wetlands.
 - (2) No wetland and its buffer designated or regulated by the State of Vermont shall be filled, excavated, or altered without prior review and approval by the Agency of Natural Resources.
 - (3) Land development that obtains a state wetlands permit shall be assumed to have met the requirements of this section with the exception of land development within an identified vernal pool or vernal pool buffer. Any zoning permit or approval shall be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.
 - (4) For developments proposed within a vernal pool or Class III wetland and its buffer zone (as may be identified through survey), the following factors shall be considered to avoid impact:
 - A. Prohibit development including disturbance of vegetation, soils, and forest canopy within the first 50 feet of the delineated boundary of all vernal pools and wetlands.
 - B. Locate land development on portions of the lot outside wetlands and vernal pools.
 - C. Maintain naturally vegetated areas between wetlands or vernal pools and nearby development. Where disturbance and clearing are necessary, the disturbance and clearing should be minimized within wetland buffers and vernal pool buffers.
 - D. Minimize earthwork and alteration of the natural grade of the land and natural drainage characteristics.
 - E. Limit road and utility crossings through wetland buffers and vernal pool buffers and locate any unavoidable crossings at the narrowest section of the wetland buffer or vernal pool buffer. Consider use of existing crossings or shared driveways to access upland areas on the lot.
 - F. Minimize the amount of impervious surface. Consider use of pervious materials.
 - G. Avoid water withdrawal or changes in drainage patterns that shall direct water away from the wetland or vernal pool.
 - H. Disturbance of vernal pools or Class III wetland areas or the setback may be allowed if the disturbance activity to the wetland area and the associated setback meet all of the following criteria:
 - i. There is not an available, practicable design alternative that can avoid the wetland areas and the associated setbacks without violating other community design goals

and objectives as outlined in the applicable town plan and the requirements of these Regulations (conservation, scenic quality, density, zoning...), and still allow for the reasonable use on the property.

- ii. The project will limit the degree of impact on the wetland area and the associated setback to the greatest extent practical using accepted mitigation procedures prepared by a licensed engineer.
- iii. The impact on the wetland area or the required setbacks will be mitigated by preservation and maintenance operations.
- iv. The loss of a wetland area will be compensated for by replacing or substituting the wetland resource lost in terms of quantity and quality.
- v. The project's discharges will not violate other applicable regulations and laws.

3. Riparian Areas.

- a. Intent. To promote the establishment and protection of heavily vegetated areas of native vegetation and trees along the Town's water bodies to reduce the impact of stormwater runoff, prevent soil erosion and pollution, protect wildlife and fish habitat, and maintain water quality.
- b. Applicability. These regulations apply to all land use and development proposed within the buffer zones of rivers, streams, and intermittent streams and ditches as shown on the Town of Cornwall's Special Features Overlay Map 1. Buffer zones are defined as follows:
 - (1) All land within 100 feet horizontal distance measured from the top of bank of the Lemon Fair River.
 - (2) All land within 50 feet horizontal distance measured from the top of slope, or top of bank, as appropriate, for all other rivers, streams and intermittent streams and ditches.
- c. Supplemental Standards. All development and subdivisions proposed within the buffer zones of rivers, streams and intermittent streams and ditches are subject to the following supplemental standards:
 - (1) Except as provided in Subsections (5) and (6) below, all lands within a riparian buffer shall be left in an undisturbed, vegetated condition.
 - (2) Removal of dead trees or trees of immediate threat to human safety as well as reasonable pruning of existing trees is permitted.
 - (3) The creation of new lawn areas within riparian buffers is not permitted. Property owners already encroaching on the riparian buffer are encouraged to return mowed areas to their vegetated state. Supplemental planting with appropriate native vegetation to restore and enhance the effective filtering and bank stabilization functions of a riparian buffer is encouraged.
 - (4) Any areas within a riparian buffer that are not vegetated or that are disturbed during construction shall be seeded with a naturalized mix of grasses rather than standard lawn grass.
 - (5) Development shall not increase potential of materials to be swept onto other lands or into streams that would cause damage to other properties from fluvial erosion.
 - (6) The following may be conducted within riparian areas without permit:
 - A. Trees may be trimmed as long as the overall canopy is maintained.
 - B. Underbrush may be replaced with native vegetation that is more appropriate to a riparian zone.

- (7) The following may be permitted as conditional uses within riparian buffers subject to the standards and conditions enumerated for each use:
- A. Unpaved footpaths located at least ten (10) feet horizontal distance measured from the top of slope.
 - B. Paved paths located at least fifty (50) feet horizontal distance measured from the top of slope. Access points are allowed, but shall be limited to areas where the stream or river channel is already confined and/or permanently constrained.
 - C. Roadways or access drives for purposes of crossing a riparian buffer to gain access to land on the opposite side of the buffer, or for purposes of providing safe access to an approved use, in cases where there is no feasible alternative for providing safe access. A roadway crossing or access drive shall occur at a right angle to the stream channel, unless determined impractical by the DRB.
 - D. Utility lines, including telephone, cable, sewer and water, to the extent necessary to cross or encroach into the riparian buffer where there is no feasible alternative for providing or extending utility services.
 - E. Outdoor recreation and education facilities provided that any building or structure (including parking and driveways) associated with such use is located outside the riparian buffer.
 - F. Stream restoration projects, including dam removals, in accordance with a plan approved by the Vermont Agency of Natural Resources.

4. **Steep Slopes.**

- a. Intent. To prevent erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, which are detrimental to water quality and aquatic life, and a potential hazard to public safety, as well as to maintain the aesthetic value of ridgelines.
- b. Applicability. These regulations apply to all areas that are steeply sloping (15 percent or greater) and prone to severe erosion if disturbed, or for developments that create slopes 15 percent or greater.
- c. Supplemental Standards. All development and subdivisions proposed on steep slopes are subject to the following supplemental standards:
 - (1) The only permitted grading on slopes 15 to 20 percent shall be in conjunction with the siting of a driveway accessing a single-family residence, which should be designed following the land contours.
 - (2) No site disturbance or development shall be allowed on slopes exceeding 20 percent except grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 20 percent is feasible, and shall follow the natural contours.
 - (3) Development proposals should be designed to exclude steep slopes 15 percent or greater. In the event that no other land is practical for development, the building envelopes and subsequent development shall be designed not to encroach upon steep slopes to the minimum extent feasible. In such cases, site disturbance shall be minimized to 5,000 sq. ft. Development proposals on slopes greater than 20 percent may require a licensed professional engineer to certify that

they do not pose a landslide or erosion risk. In no case will development on slopes greater than 25 percent be allowed.

- (4) No slopes greater than 30% shall be created.
- (5) Distinctive natural features, the general topography of the site and existing natural vegetation defined by steep slopes shall be preserved.
- (6) All developments shall produce a final grade that is compatible with surrounding natural terrain.
- (7) A harmonious transition should be created between graded slopes and the natural terrain.
- (8) Avoid creating continuous unbroken slopes or linear slopes.
- (9) Contour graded slopes by varying the slope increment to produce a final grade that undulates both vertically and horizontally.
- (10) Retaining walls, terraces, and cut-and-fill banks shall be varied to produce a final grade that has visual interest and allows for naturalistic landscaping.
- (11) Pad elevations on sites with multiple structures should be varied to follow the natural terrain.
- (12) Compact building forms and or multi-story buildings should be utilized where possible to minimize building footprint.
- (13) Split- or multi-level building forms that step up or down the slope should be used where practical to avoid skylining.

5. **Ecologically Significant Sites and Priority Forest and Connectivity Blocks.**

- a. Intent. To maintain ecologically significant sites and forest and connectivity blocks that provide important habitat and allow animals to travel from one large forest block to another in an attempt to meet their necessary survival requirements. The regulations under this section are informed by *An Ecological Inventory of Cornwall, Vermont*, prepared by Brett Engstrom in 2015.
- b. Applicability. These regulations apply to all land use and development proposed within ecologically significant sites and priority forest and connectivity blocks as shown on the Town of Cornwall's Special Features Overlay Map 2.
- c. Supplemental Application Requirements.
 - (1) An ecologic impact report is required for all projects proposed within the *Ecologically Significant Sites* identified on the Special Features Overlay Map 2.
 - (2) The study shall be prepared by an expert, specialist or other party qualified to assess the impact of development on ecologic areas. The applicant shall pay for the cost of the study. The study shall address the following:
 - A. Total acres in the parcel or project area;
 - B. Total acres of priority forest and connectivity blocks in the parcel or project area;
 - C. Total acres of each habitat type in the parcel or project area;
 - D. Location and total acreage of open space areas in the parcel or project area;
 - E. Wildlife species known to be present or occurring on the site;
 - F. Use patterns of wildlife habitat within the parcel of project area (movement corridors, feeding areas, etc);
 - G. Critical connections or relationships with adjoining habitats outside the parcel or project area;

- H. Potential impacts of the proposed project on wildlife habitat and species;
 - I. Potential impacts on forest fragmentation;
 - J. List of proposed mitigation methods for each wildlife habitat and species, including proper siting of building envelopes, roads, driveways, and utility corridors; and
 - K. Any other information deemed necessary by the DRB to adequately assess the impact of the proposal on biological areas within or adjacent to the project site.
- (3) For all other areas identified on Map 2, the DRB may require an ecologic impact report to be prepared prior to making a recommendation or decision on a development proposal if they believe there is a potential for significant impact to habitat or species resulting from the development proposal. Alternatively, a written review could be asked for from the Vermont Department of Fish and Wildlife regarding the impact of the proposed development on the wildlife corridor and significant wildlife habitats.
 - (4) Upon request of the applicant, the DRB may waive this requirement for projects it deems are designed in ways that have little or no adverse impact on significant wildlife habitat and forest blocks and minimize or avoid fragmentation.
- d. Supplemental Standards. All development and subdivisions within areas identified on the Special Features Overlay Map 2 are subject to the following supplemental standards. This information should be contained within reports and studies as requested by the DRB.:
- (1) All structures must be located within designated building envelopes. Building envelopes shall be located and designed in a manner that reduces penetration into large forest blocks and avoids the fragmentation of forestland and habitat identified on the Special Features Overlay Map 2.
 - (2) Building lots shall be clustered to avoid the fragmentation of forest and connectivity blocks.
 - (3) Development shall be placed close to roads and/or developed areas to allow sufficient wildlife corridors through the area and avoid fragmentation.
 - (4) A buffer area of adequate size, as recommended by an expert or specialist, from the edge of development shall be established to ensure the protection of critical wildlife habitats and travel corridors.
 - (5) Site clearing and disturbance, including the removal of existing vegetation, shall be limited to the greatest extent possible. Exceptions may be considered from removal of invasive species.
 - (6) The length of roads, driveways and utility corridors shall be minimal and must follow existing linear features (e.g., rights-of-way, stone walls, fence lines, or forest edges) and natural contours (not including naturally occurring streams or waterways) to limit encroachment and avoid resource fragmentation.
 - (7) Roads, driveways and utility corridors shall be shared to the extent feasible and designed to avoid or limit forest fragmentation.
 - (8) Fences, walls, or substantial changes in grade that would disrupt the movement of wildlife within a wildlife corridor shall be prohibited.
 - (9) The subdivision of forestland shall, to the extent feasible, be configured to allow for ongoing forest management of the parcel after subdivision. Lot boundaries and development envelopes should be laid out to avoid the unnecessary fragmentation of productive timber stands, and

provision for forest management access should be a consideration of the final plan if active management is taking place.

- (10) Management plans and monitoring programs for protected resources and associated buffer areas that may be identified in the ecologic impact report shall be required.

6. **Prime and Statewide Agricultural Soils.**

- a. Intent. To promote the continuation of agriculture on productive farm fields, to promote conservation easements (refer to Town Plan) to retain the maximum possible amount and quality of agricultural lands that often provide important scenic views, to protect historically viable farmland and prime and statewide agricultural soils, and preserve Cornwall's rural character, scenic characteristics including open lands, views, and working landscape qualities in accordance with the Cornwall Town Plan.
- b. Applicability. These regulations apply to all land use and development proposed within prime and statewide agricultural soils as shown on the Town of Cornwall's Special Features Overlay Map 3.
- c. Supplemental Standards. All development and subdivisions within areas identified on the Special Features Overlay Map 3 are subject to the following supplemental standards:
 - (1) Building envelopes, structures, driveways, roads and utility corridors shall be located at natural edges along fields, treelines, or hedgerows. In the event that no other land is practical for development, site building envelopes on the least fertile soils in order to minimize the use of productive agricultural land and impacts on existing farm operations.
 - (2) Buildings shall be clustered in the project area and next to adjacent development to avoid the fragmentation of productive farmland/open land.
 - (3) Preserve significant blocks of primary agricultural soils on the property as common or open space.
 - (4) Development shall be located such that it will not conflict with existing agricultural uses in the area and provide adequate buffers between potentially conflicting uses to ensure the continued agricultural use.
 - (5) Establish deeds and covenants on each lot near or adjacent to existing agricultural operations containing "Freedom to Farm Provisions" acknowledging the agricultural activity and its right to operate pursuant to accepted agricultural practices.
 - (6) When development is proposed within open fields or meadows that contribute to an important viewshed or scenic backdrop, site houses below the line of sight or below the skyline to maintain the integrity of the landscape and views that contribute to the rural character, where applicable.

SECTION 209: WELLHEAD PROTECTION AREA OVERLAY (WHPAO)

- 1. **Purpose.** The purpose of the Wellhead Protection Area Overlay (WHPAO) District is to protect the ground water and ground water recharge areas of the town from adverse development or land use practices and to preserve and protect present and potential sources of water supply for the public health and safety.
- 2. **Applicability.** These regulations apply to the wellhead protection area identified on the Zoning District Map, which includes a circle with a radius of 500 feet around the identified wells, and any future wellhead protection areas identified by the Vermont Agency of Natural Resources, Department of Environmental Conservation, Drinking Water and Groundwater Protection Division.

3. Standards for Development.

- a. All on-site septic systems, including leach fields, shall be located outside of the WHPA to the extent feasible.
- b. For proposed single and two-family dwellings, and associated accessory uses and structures, the applicant shall demonstrate that they have reviewed the Wellhead Source Protection Plan as most recently adopted and approved by the state and have placed infrastructure that could impact the WHPA in an area designed to reduce the likelihood of impact.
- c. All other development within WHPA, except for agriculture, forestry, and uses that are specifically prohibited under Section 209.3.d below, shall be subject to conditional use review by the DRB under Section 607, to include findings that:
 - (1) The proposed development is consistent with the Source Protection Plan as most recently adopted and approved by the state, does not include a prohibited activity or use under Section 209.3.d below, and does not present a threat to the public water supply.
 - (2) There shall be no on-site discharge of hazardous materials from floor drains; all floor drains will drain into holding tanks.
 - (3) Dry wells shall be used only when other methods are unfeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. All drainage ways, dry wells, and sediment traps shall be regularly maintained in full working order by the owner.
 - (4) Site clearing and disturbance, and on-site paving, roofing, and other impervious surfaces that increase surface runoff and limit water infiltration and recharge, are minimized. All runoff from impervious surfaces shall be diverted to areas covered with vegetation for surface infiltration.
 - (5) The storage and application of fertilizers, pesticides, herbicides and other chemicals shall comply with all state and federal regulations and best management practices.
 - (6) Above ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building or other impervious containment area to prevent spills and leaks from reaching groundwater.
 - (7) The use of sodium chloride for ice control shall be minimized.
 - (8) The DRB, as a condition of approval, may require groundwater monitoring on-site or in the immediate vicinity of the project.
- d. The following uses and activities are specifically prohibited within a designated source protection area:
 - (1) Operations, including home industry and home occupations, which manufacture, use, process, store or dispose of hazardous materials or wastes in amounts that could threaten public water supplies, including but not limited to metal plating, chemical manufacturing, wood preserving, photographic processing, motor vehicle service, auto body repair, furniture stripping, and dry-cleaning materials.
 - (2) Solid and hazardous waste landfills, storage and transfer facilities, dumps, salvage and junk yards.
 - (3) Outdoor storage of salt, de-icing materials, snow dumps, pesticides or herbicides.
 - (4) The storage or spreading of sludge from wastewater treatment facilities.
 - (5) Cemeteries.

- (6) The storage of unregistered vehicles unless stored in an enclosed structure and parked on an impervious surface or drained of all fluids.
- (7) Installation of floor drains or sumps that discharge directly to the ground.
- (8) Underground storage tanks, and above ground storage tanks that lack an adequate impervious containment area.
- e. Applicants may demonstrate compliance by securing a letter from the Vermont Agency of Natural Resources, Department of Environmental Conservation, Drinking Water and Groundwater Protection Division reviewing the project and certifying the project design will not unduly threaten the WHPA or by performing a study of the WHPA further defining the WHPA beyond the current "default" area and demonstrating that the proposed development either lies outside of a defined WHPA area or by demonstrating it will not unduly threaten the WHPA.

SECTION 210: FLOOD HAZARD AND FLUVIAL EROSION OVERLAY (FHFE0)

1. **Statutory Authorization.** In accordance with the purposes of 10 V.S.A. Chapter 32, the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, Sections 4411, 4414 and 4424, and 24 V.S.A. Chapter 59, there are hereby established zoning regulations for areas at risk of flood damage in the Town of Cornwall. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117 and Articles 5 and 6 of these Regulations.
2. **Statement of Purpose.** It is the purpose of the Flood Hazard and Fluvial Erosion Overlay district to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas at risk of flood damage, and to minimize losses due to floods by:
 - a. implementing the goals, policies, and recommendations in the current Town Plan;
 - b. avoiding and minimizing 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;
 - c. ensuring that the selection, design, creation, and use of development in hazard areas is reasonable, safe, and accomplished in a manner that is consistent with the public well-being, does not impair stream equilibrium, flood plain services, or the stream corridor;
 - d. protecting individuals from buying lands that are unsuited for their purposes because of flood and fluvial erosion hazards.
3. **Other Provisions.**
 - a. Precedence of Regulations. The provisions of these flood hazard regulations 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.
 - b. Validity and Severability. If any portion of this regulation is held unconstitutional or invalid by a competent court, the remainder of this regulation shall not be affected.

- c. Warning of Disclaimer of Liability. This regulation does not imply that land outside of the areas covered by this regulation will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Cornwall, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

4. **Lands to Which These Regulations Apply.**

- a. 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 Cornwall, 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. Where River Corridors are not mapped, the standards in Section 210.7 shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope.
 - (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.
- b. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas. Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant’s responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.
- c. Interpretation. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
 - (1) 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 Zoning Administrator (ZA). If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.
 - (2) If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

5. **Summary Table - Development Review in Hazard Areas.** The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

#	Activity	Hazard Zone		
		Special Flood Hazard Area	Floodway	River Corridors
	P = Permitted by Right C = Permitted as a Conditional Use E = Exempt either by statute or pursuant to these Regulations. Exempt uses may still need to file an application. X = Not Allowed			
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C	C	C
4	Small Accessory Structures	P	X	C
5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
8	Fill as needed to elevate existing structures	C	C	C
9	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance	E	E	E
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P
18	Open space, recreation	E	E	E
19	Forest uses	E	E	E
20	Agricultural uses	E	E	E

6. **Development Review in Hazard Areas.**

- Permit.* A permit is required from the Zoning Administrator for all development in all areas defined in Section 210.4.a(2). Development that requires conditional use approval, non-conforming use approval, or a variance from the DRB under these flood hazard and river corridor regulations, must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 210.4.b and 210.4.d. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.
- 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 and outside of the River

Corridors, and meeting the Development Standards in Section 7 below, require only an administrative permit from the Zoning Administrator:

- (1) Non-substantial improvements;
- (2) Accessory structures;
- (3) Development related to on-site septic or water supply systems;
- (4) Building utilities;
- (5) At-grade parking for existing buildings; and,
- (6) Recreational vehicles.

c. Prohibited Development in Special Flood Hazard Area and River Corridors.

- (1) New residential or non-residential structures (including the placement of manufactured homes);
- (2) Storage or junk yards;
- (3) New fill except as necessary to elevate structures above the base flood elevation;
- (4) Accessory structures in the floodway;
- (5) Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
- (6) All development not exempted, permitted, or conditionally permitted.

d. Conditional Use Review. Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the Zoning Administrator for the following proposed development:

- (1) Substantial improvement, elevation, relocation, or flood proofing of existing structures;
- (2) New or replacement storage tanks for existing structures;
- (3) Improvements to existing structures in the floodway;
- (4) Grading, excavation; or the creation of a pond;
- (5) Improvements to existing roads;
- (6) Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
- (7) Public utilities;
- (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
- (10) Building utilities in the River Corridors; and,
- (11) At-grade parking for existing buildings in the River Corridors.

e. Exempted Activities. The following activities are exempt from these Regulations:

- (1) The removal of a building or other structure in whole or in part;
- (2) Maintenance of existing roads and storm water drainage;
- (3) Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
- (4) Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

- f. 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 504.
- (1) A variance for development within the River Corridors 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 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.
 - (3) The DRB shall maintain a record of all variance actions in flood hazard areas and river corridors, including justification for their issuance and report such variances to the Administrator upon request.

- g. 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 210.7 of these Regulations;
- (2) A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. 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;
- (3) Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than twelve (12) months; and
- (4) 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 these Regulations.

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

- a. Special Flood Hazard Areas.

- (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;

- 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 Special Flood Hazard Areas where floodways and/or Base Flood Elevations 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.
- (3) Structures to be substantially improved 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;
- (4) Non-residential structures to be substantially improved shall:
- A. Meet the standards in 210.7.3, or,
 - B. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so 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.
- (5) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- (6) 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.

- (7) Recreational vehicles must be fully licensed and ready for highway use;
- (8) A small accessory structure of 500 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 907 A 6 (above).
- (9) Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (10) 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.
- (11) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (12) 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;
- (13) 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.
- (14) Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.

b. Floodway Areas.

- (1) 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 any risk to surrounding properties, facilities, or structures from erosion or flooding.
- (1) 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.

c. River Corridors.

- (1) Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank;
- (2) Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.

- (3) Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
 - (4) 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;
 - (5) 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.
 - (6) Bridge and culvert projects must have a Stream Alteration Permit; and
 - (7) Channel management activities must be authorized by the Agency of Natural Resources.
- d. Upon consideration of these standards, and the purposes of these Regulations, the DRB shall attach such additional conditions to the granting of a Permit as are necessary to meet the purposes and hazard area requirements of these Regulations.

8. Administration.

- a. Application Submission Requirements. In addition to the application requirements in Article 6, applications for development within the Flood Hazard Area and River Corridor Overlay District shall also include the following information:
- (1) The location, on the site development plan, of 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) As applicable, a completed FEMA Elevation Certificate prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations;
 - (3) Where flood-proofing is proposed, a completed FEMA Flood-proofing Certificate prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction that the designed and proposed method of construction of buildings to be floodproofed are in accordance with accepted standards of practice for meeting the standards of these Regulations;
 - (4) A hydraulic and hydrologic analysis for any development located within the floodway;
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and,
 - (6) 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 Zoning Administrator and attached to the permit before work can begin.
- b. Referrals.
- (1) Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural

- Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
- (2) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.
- c. Decisions. 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. Upon the close of the hearing, the DRB shall issue its decision, and any conditions included therein, pursuant to the procedure outlined in Articles 5 and 6 of these Regulations.
- d. Records. The Zoning Administrator 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 structures) 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.
- e. Reporting.
- (1) The Zoning Administrator shall, to the extent possible, submit to the FEMA Administrator the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazard area bylaws.
 - (2) A copy of the annual report shall be submitted to the State coordinating agency.
- f. Fees. The Selectboard may establish additional fees as may be necessary for the filing of notices and the processing of hearings and action thereon under this Section of these Regulations. All such fees shall be paid to the DRB upon application for a permit under this Section of these Regulations.
- g. Certificate of Occupancy. In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or River Corridors until a certificate of occupancy is issued therefore by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days

of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy can not be issued, notice will be sent to the owner and copied to the lender.

h. Enforcement and Penalties.

- (1) This Regulation shall be enforced under the municipal zoning regulations in accordance with 24 VSA Chapter 117 § 4451, § 4452 and 24 VSA Chapter 59 §1974a. A copy of the notice of violation will be mailed to the State NFIP Coordinator.
- (2) If any appeals have been resolved, but the violation remains, the Zoning Administrator 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.
- (3) Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

SECTION 211: SUMMARY OF USES BY ZONING DISTRICT

P = Permitted by right C = Permitted as a Conditional Use X = Not Allowed	Village (V)	Rural Neighborhood (RN)	Agricultural Residential (AR)
Agriculture and Related Uses			
Abattoir	X	C	C
Rural enterprise	C	C	C
Residential Uses			
Accessory apartment	P	P	P
Accessory structure	P	P	P
Accessory use (Existing building or new building <1,500 sq. ft.)	P	P	P
Dormitory	C	C	C
Group residential care home	P	P	P
Multiple-family dwelling (< or = to 4 units/structure or conversion of existing structure)	P	P	P
Multiple-family dwelling (> 4 units/structure)	C	C	C
One-family dwelling	P	P	P
Two-family dwelling	P	P	P
Residential care facility	C	C	C

P = Permitted by right C = Permitted as a Conditional Use X = Not Allowed	Village (V)	Rural Neighborhood (RN)	Agricultural Residential (AR)
Senior living facility	C	C	C
Worker housing	C	C	C
Recreational Uses			
Recreation, indoor	C	C	C
Recreation, outdoor	C	C	C
Business Uses			
Bank, no drive-thru	P	X	X
Bed & Breakfast (< 5 BR for rent)	P	C	C
Bed & Breakfast (> or = 5 BR for rent)	C	C	C
Campground	X	C	C
Club	C	C	C
Contractors yard	X	C	C
Family child care home	P	P	P
Child care facility	C	C	C
Educational Facilities	C	C	C
Enclosed manufacturing and light industry (within existing building)	X	X	C
Event venue	C	C	C
Home industry	C	C	C
Home occupation	P	P	P
Kennel	X	X	C
Mobile Food Truck	P	P	P
Motor vehicle sales facility	C	X	X
Motor vehicle service station (No fuel)	C	X	X
Nursery	C	C	C
Personal Services	P	X	X
Professional and business office (< or = 2,500 sq. ft.)	P	C	C
Professional and business office (>2,500 sq. ft.)	C	C	X
Restaurant (No drive-thru)	C	C	C
Retail store (< or = 2,500 sq. ft.)	P	C	X
Retail store (>2,500 sq. ft.)	C	C	X
Short-term rental housing	P	P	P
Veterinary clinic	C	C	C
Other Uses			
Earth extraction	X	X	C

P = Permitted by right C = Permitted as a Conditional Use X = Not Allowed	Village (V)	Rural Neighborhood (RN)	Agricultural Residential (AR)
Personal landing area	X	X	C
Renewable energy system (not regulated by 30 V.S.A § 248)	C	C	C
Telecom tower	X	X	C
Telecom antenna (Mounted on existing structure)	P	P	P
Uses subject to 24 V.S.A § 4413 (a)	P	P	P

ARTICLE 3. GENERAL REQUIREMENTS (APPLICABLE TO ALL DEVELOPMENT)

SECTION 301: ABANDONED OR DAMAGED STRUCTURES

1. **Abandoned Structures.** Structures which are not substantially commenced within one (1) year of the issuance of a zoning permit, or within six (6) months of being substantially damaged or destroyed, shall be considered abandoned for the purposes of these regulations. For such structures, the owner shall either:
 - a. apply for a zoning permit under Section 604 to resume construction or repair, and thereby confirm the intent not to abandon the structure; or
 - b. remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.
2. **Damaged Structures.** No zoning permit shall be required for the stabilization of a damaged structure to prevent hazards to public health and safety, or to abutting properties, structures or uses; nor for the timely repair or reconstruction of a damaged structure to the extent of its prior condition and use. However:
 - a. Repair or reconstruction of a damaged structure must begin within one (1) year and be substantially completed within two (2) years of the date of the event resulting in its damage or destruction.
 - b. A zoning permit shall be required for any repair or reconstruction that results in changes in structural dimensions (e.g., height or footprint), density (e.g., number of units), or use under applicable provisions of these regulations.
 - c. Any repair or restoration of a nonconforming structure that increases the degree of noncompliance is subject to review by the DRB under Section 314.
 - d. The repair or replacement of a damaged structure within a Flood Hazard and Fluvial Erosion Overlay District is subject to conditional use review and must comply with all applicable requirements under Section 210. The reconstruction of a substantially damaged or destroyed nonconforming structure within a Flood Hazard and Fluvial Erosion Overlay District may be reconstructed in the same location only if it cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be elevated above the base flood elevation, and the structure must otherwise comply with all applicable requirements of the National Flood Insurance Program under Section 210.

SECTION 302: CONSTRUCTION APPROVED PRIOR TO REGULATIONS

1. The Town shall not require any change in the plans for, or construction of, a structure or use for which a Zoning Permit has been issued and which has subsequently been made non-conforming by a zoning amendment if the activities authorized by the Permit are completed while the Permit is valid.

SECTION 303: CONSTRUCTION MITIGATION

1. Applicants shall demonstrate that they plan to mitigate impacts caused by construction or demolition by creating a plan including agreeing to the following mitigating conditions:
 - a. Hours. Every attempt will be made to limit the hours of major construction to between 7:00 a.m. and 7:00 p.m.
 - b. Trucking Hours. Every attempt will be made to limit the hours of material trucking to between 7:00 a.m. and 7:00 p.m.
 - c. Blasting notification. Requiring notification of neighbors before any blasting.
 - d. No noise which violates the Town noise ordinance in effect at the time of the application, if any, or which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted. Construction activities shall follow current federal Occupational Safety and Health Administration (OSHA) Standards for Occupational Noise Exposure with respect to permissible noise exposures.
 - e. Machinery that produces dust shall be equipped with satisfactory dust elimination devices.
 - f. Jobsites will be kept clean and orderly so as not to cause an undue adverse impact on neighboring properties or the character of the area. Materials and equipment shall be contained within a designated staging area at the end of each work day.
 - g. The applicant will provide sufficient parking for all workers on site, and shall limit use of roadways or right-of-way, for equipment parking, deliveries, or similar to a maximum of one hour.

SECTION 304: DWELLING UNITS BELOW GRADE

1. The lowest dwelling unit in every two-family or multiple-family structure shall have ingress to and egress from any finished floor level of that unit.

SECTION 305: ENERGY CONSERVATION

1. In order to conserve energy, all development shall use the least areas of roadway and the least length of sewer, water and utility lines within environmentally and economically sound limits. Development shall be designed so as to take advantage of southeast, south and southwest orientations where possible. Landscaping should be effectively used for providing wind barriers and reducing heat loss and heat gain. Cluster development is encouraged throughout town, except for development or locations where it is required as outlined in these Regulations.

SECTION 306: ENERGY STANDARDS FOR NEW CONSTRUCTION

1. Residential buildings, as defined by 30 V.S.A section 51 (a) (2), that are principal buildings, are encouraged to comply with the Stretch Code, as defined by 30 V.S.A. section 53 (a). Such buildings are required to meet the state mandated Residential Building Energy Standards (RBES).
2. Commercial buildings, as defined by 30 V.S.A. section 53 (a), that are principal buildings, shall comply with the Commercial Building Energy Standards Stretch Code Guideline, as prepared and revised by the Vermont Public Service Department. If no such Guideline exists, it shall not be applied. Such buildings for which the CBES Certificate certifying compliance with the CBES and Guideline is not recorded in the local records shall be deemed land development without a zoning permit in violation of these Regulations.

SECTION 307: EQUAL TREATMENT OF HOUSING

1. Except as provided in 24 V.S.A. § 4414(1)(E) and (F), nothing in these Regulations will treat mobile homes, modular housing or other forms of prefabricated housing differently from any other one-family dwelling type.
2. Nothing in these Regulations will be construed to prevent the establishment of mobile home parks pursuant to 10 V.S.A. Chapter 153.
3. Nothing in these Regulations will have the effect of excluding from Cornwall affordable housing to meet the needs of the low and moderate income citizens as determined by studies described in 24 V.S.A. § 4382(c).

SECTION 308: FIRE, EXPLOSIVE, AND SAFETY HAZARDS

1. No fire, explosive, or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.

SECTION 309: FREEDOM TO FARM

1. The Cornwall Town Plan and these Regulations specifically support farming and agricultural activity. Pursuant to 24 V.S.A. § 4413(d), agricultural activities are exempt from these Regulations. Additionally, agricultural activities conducted on farmland consistent with good agricultural practices are presumed to be reasonable and are presumed not to constitute a nuisance under these Regulations. The burden shall be on the complainant to demonstrate that the activity has a substantial adverse effect on the public.

SECTION 310: HEIGHT OF CERTAIN STRUCTURES

1. No structure shall exceed the maximum district height requirements except for specified exempt structures listed below or those as allowed elsewhere in these Regulations:
 - a. Farm structures in accordance with Section 602;

- b. Church steeples, spires and belfries;
- c. Water towers;
- d. Utility structures regulated by the Vermont Public Utilities Commission;
- e. Utilities not regulated by the Vermont Public Utilities Commission, including wind generation towers and equipment reviewed under Section 420;
- f. Telecommunication towers reviewed under Section 425
- g. The following accessory uses provided they do not exceed the district maximum height by more than 10 feet:
 - a. HAM radio antennas;
 - b. Flag poles;
 - c. Chimneys and weathervanes

SECTION 311: LOT, YARD, AND SETBACK REQUIREMENTS

1. **Principal Use.** Only one principal use or structure shall be located on a single lot, unless otherwise allowed as an adaptive reuse under Section 401 or, with the approval of the DRB, as part of a planned unit development under Section 609.
2. **Existing Small Lots.**
 - a. Any undeveloped lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.
 - b. Any pre-existing small lots that were or came into contiguous ownership as of May 27, 1998 or thereafter and were deemed automatically merged, may be re-subdivided along the pre-existing lines by action of the DRB applying the procedures and criteria necessary to secure a conditional use permit.
3. **Front Yard.** Any yard abutting a public road shall be considered a front yard.
4. **Front Yard Setback.** The front yard setback shall be measured from the center line of the existing roadway.
5. **Corner Lots.** A corner lot shall be considered to have only front yards and side yards. Frontage and front setback requirements shall apply along each road right-of-way.
6. **Interior Lots.** Any lot which does not have frontage on either a public road or public waters shall have a minimum yard requirement for all yards which is equal to the side yard minimum setback specified for lots in that district.
7. **Projection in Yards.** Every part of a required yard shall be open from grade level to the sky unobstructed, except for vegetation and for the ordinary projections of sills, cornices, pilasters, chimneys, and eaves, provided that no such projections may extend more than two (2) feet into any required yard. Additionally, certain architectural features needed for the operation of active and passive solar energy systems, including but not limited to overhangs, detached solar collectors, reflectors, and piping may be permitted by the DRB to project into the required yard if conformance with yard requirements will cause undue expense or

unusual difficulties. Any carport, porch, terrace, deck, or steps not covered overhead by a roof, awning, or other similar covering may extend into a yard.

8. **Reduction of Lot Area.** No lot shall be so reduced in area that the lot area minimum, yards, lot frontage minimum, lot coverage maximum, or other requirements of these Regulations do not conform to the requirements herein prescribed for each district, except as approved by the DRB for a planned unit development under Section 609. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

SECTION 312: HISTORIC FEATURES

1. Historic features such as structures, barns, outbuildings, fences, stone walls, heritage trees, existing pathways, or other historic and traditional settlement pattern landscape features should be prioritized as key features of development and every effort to maintain, re-use or stabilize the feature should be taken.

SECTION 313: LANDSCAPING AND SCREENING

1. **Purpose.** These landscaping and screening provisions are intended for the protection and enhancement of the environment, to preserve and enhance the character, appearance and beauty of the community, and to ensure reasonable compatibility between land uses of differing intensity or impacts.
2. **Applicability.** Landscaping and/or screening shall be required for projects that involve DRB review and approval. "Landscaping" is the modification and enhancement of an area of land, which may take the form of lawns, trees, plants, and other natural materials such as rock, wood chips, and decorative features. "Screening" blocks, hides, or filters one abutting or nearby structure or use from another or from a road. It may take the form of landscaping, or other site modifications such as berms, fences, and stone walls.
3. **Standards.** The DRB may waive any of the following conditions and standards as it deems appropriate.
 - a. Each project shall incorporate landscaping and/or screening that (i) breaks up the visible area of the project so as to prevent unobstructed views of the project; (ii) mitigates adverse impacts on views from residences and public highways; and (iii) harmonizes the project with the character of the surrounding landscape and neighborhood.
 - b. Any project must incorporate sufficient landscaping and/or screening to ensure that the visibility the project does not create an undue adverse impact on the scenery and visual quality of the area.
 - c. Parking areas for uses other than single and two-family dwellings shall be landscaped and screened from adjacent uses.
 - d. Plantings for screening purposes shall be of sufficient height, density and maturity to achieve effective mitigation, where appropriate, within 3 years of planting.
 - e. Landscaping and screening materials shall not conflict with visibility for motorists or pedestrian access.
 - f. Shrubs and plantings will be non-invasive native or adaptive plants chosen for drought-resistance, salt tolerance, or other qualities necessary to survive in local conditions. Variety should be achieved with respect to seasonal changes, species selected, texture, color, and size at maturity.

- g. Landscaping will serve to integrate the proposed development to the site, with particular consideration for natural topography and existing vegetation.
- h. Landscape composition will be complimentary to the scale and style of existing and proposed buildings.
- i. Preservation of existing landscape materials and landforms is desirable.
- j. Plantings for screening shall be made in accordance with a screening maintenance plan, included with application for and made a condition of the project's permit. Such screening maintenance plan shall include at a minimum:
 - (1) A schematic showing the location of both existing and planned planting material, earthwork and structures.
 - (2) A plant material list including all plants to be made a part of the screening, listed by both common and botanical name, the size at installation, expected size at maturity, and expected number of years to maturity.
 - (3) The name, telephone number, email and street address of the party responsible for screening installation and maintenance, the timing of installation, and a plan for ensuring year-round screening maintenance.
- k. Where new screening materials must be installed or planted, natural, living, native screening materials such as native trees and shrubs shall be used in lieu of artificial screening materials such as walls, fences, and other structures; provided, however, that limited use of artificial screening materials is permissible to the extent that (i) the use of living screening in that area is not feasible, and (ii) the artificial screening is of size, scale and materials that are consistent with the character of the surrounding neighborhood and landscape.
- l. All plantings for landscaping and/or screening must be installed within four weeks of the date the principle construction is completed given appropriate planting conditions. A project with a date falling during frozen ground conditions must install all plantings within four weeks of the following spring thaw.
- m. In determining the amount and type of plantings or other site improvements to be required for landscaping and/or screening, the DRB shall take into account at least the following:
 - (1) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
 - (2) The landform and overall landscaping plan for the project;
 - (3) Other factors which affect the safety and appearance of the project;
 - (4) The adequacy of landscaping materials to meet seasonal conditions, soil conditions, erosion control, and light on the site; and
 - (5) Adequate setbacks and site grading to insure that plantings are not adversely affected by traffic and road salt.
- n. No landscaping and/or screening shall be placed in the public right of way except as waived or required by the DRB.
- o. Any screening vegetation in a condition that does not fulfill the intent of the approved planting plan will be replaced by the property owner during the next planting season. Any screening vegetation contained in an approved planting plan that is allowed to die and is not replaced or repaired may be subject to a civil fine of up to the maximum amount allowed by 24 V.S.A. Section 4451, after sufficient notice by the Town.

- p. The DRB may require a separate bond or other surety against completion of the requirements of this section.

SECTION 314: NON-CONFORMITIES

1. The following provisions shall apply to all lawful buildings and uses existing on the effective date of these Regulations which do not conform to the requirements set forth in these Regulations and to all buildings and uses that in the future do not conform by reason of any subsequent amendment to these Regulations.
2. Any non-conforming lawful buildings or uses except those specified below, may be continued indefinitely, but:
 - a. Shall not be moved, enlarged, altered, extended, reconstructed or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever, without approval by the DRB, and then only after a public hearing carried out pursuant to the provisions governing a conditional use review in Sections 607 in a manner, which, in the opinion of the DRB does not enlarge the nature of the non-conformance.
 - b. Shall not be changed to another non-conforming use without approval by the DRB, and then only after a public hearing carried out pursuant to the provisions governing a conditional use review in Section 607 and only to a use, which, in the opinion of the DRB is of the same or of a more restricted nature.
 - c. Shall not be re-established if such use has discontinued for a period of one (1) year or has been changed to, or replaced by, a conforming use without approval by the DRB, unless after a public hearing carried out pursuant to the provisions governing a conditional use review in Section 607 it changes to a use, which, in the opinion of the DRB, is of the same or of a more restricted nature. Intent to resume a non-conforming use shall not confer the right to do so.
 - d. Shall not be restored for other than a conforming use after damage from any cause unless the non-conforming use is reinstated by the commencement of construction within one (1) year of such damage and the completion of construction and restoration of such building within two (2) years; otherwise, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on uninterrupted in the damaged part of the building.
 - e. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming building provided that such action does not increase the degree of non-conformance.

SECTION 315: PERFORMANCE STANDARDS

1. **Applicability.** Pursuant to § 4414(5) of the Act, the following performance standards, together with all applicable State standards, must be met. In all districts, uses are not allowed which exceed any of the following standards measured at the individual property line. The burden of proof that the following standards are met shall be on the applicant.
2. **Noise.** No noise which violates the Town noise ordinance in effect at the time of the application, if any, or which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be

permitted. Between the hours of 6am and 9pm, no persistent noise shall exceed 70 decibels. Between the hours of 9pm and 6am, no persistent noise shall exceed 60 decibels.

3. **Glare, Lights, and Reflection.** No light, lumen, glare or reflection shall constitute a nuisance to other property owners or tenants, impair the vision of motor vehicle operators, or otherwise be detrimental to public health, safety and welfare. Applicants shall protect dark skies at night and ridgelines by minimizing exterior lighting or obtrusive glare by implementing the following measures:
 - a. Limiting the amount of exterior night lighting;
 - b. Installing, constructing and maintaining all outdoor lighting and illuminated signs to minimize the intrusion of light across property lines, eliminate upward illumination and reduce glare and to maximize the effectiveness of site lighting by limiting light to a target area within a building envelope;
 - c. Installing any pole lights to be smaller than the building whose area they illuminate or not greater than 15 feet, whichever is less;
 - d. Requiring internal illuminated or externally lit commercial signs to be fully cut off or shielded or lit from the top down;
 - e. Requiring all building lighting for security or aesthetics to be cut off or shielded and targeted;
 - f. Prohibiting wall pack lights.
 - g. Requiring all outdoor lighting fixtures, including display fixtures, to be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be minimized;
 - h. Limiting wattage;
 - i. Encouraging motion detectors to limit use;
 - j. Using non-reflective material for roofs or siding;
 - k. Limiting excessive windows;
 - l. These Regulations shall not apply to solar or other energy generating structures.
4. **Fly Ash, Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution.** No emission shall be allowed which can cause any damage to human health, animals, vegetation or other forms of property, or which can cause any excessive soiling at any point on the property of others, and in no event may any emission from any chimney, or otherwise, of any solid or liquid particles in concentrations exceed those outlined in the National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency (EPA). For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to stack temperature of 500 degrees Fahrenheit and fifty percent (50%) excess air.
5. **Electromagnetic disturbances or electronic transmissions or signals.** No electromagnetic disturbances or electronic transmissions or signals shall be allowed which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from facilities which are specifically licensed and regulated through the Federal Communications Commission).
6. **Smoke.** No emission shall be allowed at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than Ringelmann Chart No. 2, except that visible gray smoke of a shade equal to No. 2 on said chart may be emitted for four (4) minutes in any thirty (30) minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparently equivalent opacity. Wood or coal burning for residential heating uses is accepted.

7. **Odor.** The emission of odorous gases or other odorous matter from any property in such concentrations as to be readily detectable at any point along the boundaries of said property or in such concentrations as to create a public nuisance or hazard beyond such boundaries is prohibited. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is established as a guide in determining such quantities of offensive odors, Table III, "Odor Thresholds," in Chapter 5, "Air Pollution Abatement Manual," by Manufacturing Chemists Association, Inc., Washington, D.C.
8. **Vibration.** No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instrument at or beyond the lot lines; nor shall any vibration produced exceed 0.002g (g=acceleration of gravity) peak at up to 60 cycles per second (cps) frequency, measured at or beyond the lot line using either seismic or electronic vibration measuring equipment. Vibrations occurring at higher than 50 cps frequency or periodic vibrations shall not induce accelerations exceeding .001 g. Single impulse periodic vibrations occurring at an average interval greater than five (5) minutes shall not induce accelerations exceeding .01g.
9. **Fire and explosion hazards.** All activities involving, and all storage of, inflammable and explosive materials shall proceed with, and be provided with, adequate safety devices against the hazards of fire and explosion, and such adequate fire-fighting and fire suppression equipment and devices as are standard in the industry.
10. **Liquid or solid.** No discharge shall cause harmful wastes to be discharged into the sewer system, streams, groundwater, wetlands, or other bodies of water. Effluent disposal shall comply with the local and State sewer health standards.

SECTION 316: SCENERY AND AESTHETICS

1. Land development shall endeavor to preserve the scenic visual corridors along rural roads and scenic byways that characterize Cornwall through the following measures:
 - a. Homes, driveways and other structures will be appropriately sited to blend in with the landscape
 - a. Locate structures and drives at the edge of treelines, hedgerows or adjacent developed areas and not in the middle of fields;
 - b. Locate utilities underground, if economically reasonable, or adjacent to or within treelines, hedgerows or adjacent development;
 - c. Site structures and infrastructure so they blend into the landscape and are not highlighted against the sky when viewed from roads or neighboring properties;
 - d. Clearing for homes, driveways and other structures should be controlled as follows:
 - (1) Limiting the extent of clearing and ridgeline disturbance necessary to accommodate the structures and services;
 - (2) Outside of the building footprint, not inclusive of non-native species and dead or dying trees, minimize clearing by selectively cutting small trees with diameters of less than 4" at breast height and the lower branches of larger trees when clearing views out from the structure to look strategically through the tree line. This provision is intended to control clearing that impacts the

views of structures. It is not intended to prohibit the clearing of the meadows that give Cornwall its unique character.

SECTION 317: SIGNS

1. **General.** A Zoning Permit shall be required for the placement of all signs except as provided in Section 317.3. All signs should be applied for in conjunction with the main permit application. No signs or billboards shall be permitted without meeting the following criteria:
 - a. Be in the public interest and not to the detriment of the public safety or welfare;
 - b. Not be detrimental to surrounding properties;
 - c. Be of a character, size, and location that will be in harmony with the orderly development of the district.
2. **Off-Premise Signs.** Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to State statute and regulation.
3. **Signs in Residential Districts.** The following signs are exempt from permitting requirements when located on the immediate property:
 - a. One professional, home occupation or home-based business sign, not exceeding six square feet.
 - b. One temporary real estate sign, not exceeding six square feet.
 - c. Directional or informational sign, not exceeding four square feet.
 - d. Signs necessary for public safety or welfare.
4. **Permitted Signs.** The following signs are permitted when located on the immediate property:
 - a. All signs permitted under Section 317.3.
 - b. One business sign not larger than one square foot for each lineal foot of frontage occupied by the establishment, but not to exceed 20 square feet.
 - c. One directory sign not exceeding ten square feet.
 - d. One temporary sign for the purpose of special events or occasions, not to exceed ten square feet, and not to be installed for a period longer than one month.
5. **Wall, Projecting, Ground, and Roof Signs.** Wall, projecting and ground signs shall meet the requirements of Section 317.4.
 - a. Every wall sign shall:
 - (1) Not exceed the highest point of the building's roof or 20 square feet.
 - b. Every projecting sign shall:
 - (1) Not extend beyond the street line.
 - (2) Not extend more than four feet from the building wall.
 - (3) Not be less than 10 feet above the surface of a public walkway area.
 - (4) Not exceed 16 square feet in area.
 - c. Every ground sign shall:
 - (1) Not exceed 20 feet in height above the finished grade.
 - (2) Be set back at least 20 feet from any street line, and at least 10 feet from any other lot line.
 - (3) Not exceed 20 square feet.
 - d. Roof signs shall not be permitted in any zoning district.

6. **Computation of Permissible Sign Area.** When computing the total permissible sign area for any use:
 - a. Existing signs shall be included.
 - b. The total area of all signs shall not exceed the requirements as set forth in these Regulations.
 - c. Signs consisting of freestanding letters, numerals, or other devices shall include any intervening spaces between them.
7. **Traffic, Hazard, Safety, and Obstruction.** Every sign shall be designed and located in such a manner as to:
 - a. Not impair public safety.
 - b. Not restrict clear vision between a sidewalk and street.
 - c. Not be confused with any traffic sign or signal.
 - d. Not prevent free access to any door, window, or fire escape.
8. **Illuminated and Flashing Signs.** No illuminated and flashing signs shall be permitted without meeting the following criteria:
 - a. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.
 - b. Flashing, oscillating, or revolving signs shall not be permitted, unless necessary for public safety or welfare.

SECTION 318: SITE PRESERVATION AND EROSION CONTROL

1. **Existing Features.** Existing features including but not limited to exceptional trees, scenic areas, brooks, streams, rock outcroppings, hilltops and ridges, water bodies, wetlands, open land, meadows, farmland, stone walls and other natural and historic features which the DRB determines are assets to the site and/or the community shall be preserved. To avoid parcelization, isolation or destruction of such features, irregular or elongated lots may be restricted or prohibited, the location of structures or other development may be restricted or limited to within certain building envelopes established on the property, and fixed percentages of developable open space may be required.
2. **Vegetation and Natural Cover.** Land shall be subdivided and developed to minimize grading and cut and fill, and to retain, to the degree possible, the natural contours. Wherever possible, the natural cover shall be conserved and stormwater runoff shall be limited. Vegetation such as trees and shrubs shall be retained or may be reasonably required by the DRB for screening and aesthetic purposes. Deciduous trees shall be at least 2-1/2 inches in diameter and evergreens at least four feet high at the time of planting. The DRB may also require that suitable hardwood shade trees be planted along streets where trees do not exist. All trees shall measure at least 10 feet in height and at least two inches in diameter measured at a point six inches above finished grade level. All trees are to be planted within five to eight (5-8) feet from the street line.
3. **Tree Removal.** In all existing vegetative areas, tree removal shall be limited to the following:
 - a. Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot.
 - b. Mature trees that can be saved should be welled and protected against changes in grade.
 - c. Outside the area designated for a building envelope, the DRB may limit tree removal if it determines that such removal would cause soil erosion or would adversely affect ridgelines or other scenic views,

screening for abutting properties, or significant habitat sites. When tree removal is permitted to create view corridors, it should be accomplished with narrow view openings between trees and beneath tree canopies rather than with large openings. Selective cutting of small trees and the lower branches of large trees is preferred over the removal of mature trees

- d. Tree removal, either within or outside the area designated for a building envelope, shall not be permitted where the DRB determines that it would adversely affect the scenic qualities of a ridgeline.
4. **Swales, Springs, Streams, Drainageways and Other Lowland Areas.** Swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. The following activities shall be minimized:
- a. Disturbance to streams and drainage swales.
 - b. Disturbance to year-round wetlands, areas with seasonally high water tables, and areas of surface water concentration.
 - c. Because of their extreme limitations, stream valleys, swales and other lowland areas warrant designation as open space. They may also require adjoining buffer lands to be included in the open space, to be determined by an analysis of the protection requirements of such areas on a case-by case basis.
 - d. In certain instances, seasonal high water table soils may be excluded from the open space where it can be demonstrated that they are suitable for low density residential uses and conventional on-site sewage systems.
5. **Erosion and Sediment Control.** Control measures shall follow the guidelines of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites. Projects must be designed and phased to control stormwater and erosion control both during and after construction using these guidelines. Any construction activity that disturbs 1 or more acres of land, or is part of a larger development plan that will disturb 1 or more acres, requires a Vermont state permit for stormwater discharges from construction sites. Smaller proposals shall make adequate provisions for the control of runoff and erosion, before, during and after construction, by following the requirements in Section 2 of the "*Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control*" dated August 2006 and as subsequently revised.¹
6. **Excavation and Grading.** All excavation, filling and grading required for construction shall be as specified:
- a. No grading, cutting, or filling shall be carried out in any district which leaves the slope of the finished grade in excess of 30 degrees.
 - b. Any changes in grading shall be made so that runoff is directed to established drainage courses and will not cause ponding or flooding of other properties, or exceed the capacity of downstream drainage facilities.
 - c. When possible, drainage systems shall be designed so that water runoff existing prior to site development shall not be increased after development.

¹ http://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/StormwaterConstructionDischargePermits/sw_low_risk_site_handbook.pdf

- d. All changes in grade shall be controlled so as not to cause a nuisance or damage to other properties or erosion of topsoil.
- e. A minimum of four (4) inches of topsoil shall be provided to cover finished grades and slopes.
- 7. **Fill.** No stumps, wood, roots or other fibrous materials shall be used as fill except in an area stipulated for no development. A stump dump may be permitted only if the DRB determines that its location will cause no adverse environmental effects. The DRB may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within road sections or where homes are to be located.
- 8. **Steep Slopes.** Development on slopes in excess of 15 % must comply with the requirements in the Special Features Overlay District in Section 208.

SECTION 319: TRANSPORTATION, ACCESS, SAFETY AND PARKING

- 1. **Access and Driveways.**
 - a. Required Frontage. In accordance with § 4412(3) of the Act, no land development, except for forestry and agriculture, is permitted on lots that do not have frontage on a maintained public road, or public waters, or a permanent easement or right of way of record approved by the DRB as a conditional use in accordance with Section 607 of these Regulations. Minimum frontage is established in Article 2 for each district. Frontage applies to all property lines bordering maintained public or private roadways but not driveway easements.
 - b. Non-frontage (Landlocked) Lots. Permits may be granted for land legally in existence as of the effective date of these Regulations, which does not have the required minimum frontage on a public road or public waters, provided access is safe and adequate and is available by a permanent easement or right-of-way obtained through conditional use approval of the DRB. Access easements or rights of way shall not be less than 20 feet. The DRB may require easements or rights of way to be up to 50 feet in width to ensure adequate safety and provide for orderly future development. Preexisting right of ways shall be subject to review upon a change in use, development, redevelopment, relocation or expansion. All lots subdivided after the effective date of these regulations shall meet applicable frontage requirements for the district in which they are located.
 - c. Highway Access (Curb Cut) Permit. Access onto public highways is subject to the approval of the Selectboard, and for state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with these Regulations is required. In the event that subdivision, site plan and/or conditional use approval from the DRB is required, highway access approval shall be obtained following the issuance of such approvals. Town or state highway access permits must be obtained prior to the issuance of a certificate of occupancy.
 - d. Emergency Access. Access shall be available for fire, ambulance, and police vehicles to within 100 feet of the principal entrances to dwellings, commercial or industrial establishments, and institutions.
 - e. Driveways. All driveways shall meet town driveway standards for culverts, grading, ditching and design. In addition:
 - (1) Driveways may be located within side or rear yard setback areas.

- (2) Any construction of or modification to a driveway intersecting with a public road shall be approved by the Road Commissioner prior to the issuance of a Zoning Permit. The Commissioner may require conditions with respect to the location, design, construction, and landscaping of such driveways to ensure safety and to provide access by emergency vehicles.
- (3) To permit fire and ambulance access, a driveway with a width of less than 12 feet at its narrowest point shall not be constructed. To provide room for snow, drainage or landscaping, a driveway shall be set back at least five feet from the lot or right-of-way lines.
- (4) No driveway shall exceed an average grade of 15% within any 50-foot section. The approach area within 20 feet of the road right-of-way shall not exceed a 5% grade.
- (5) Driveways 500 feet or more in length shall include, at minimum, one (1) 10-foot by 30-foot pull-off area and a turn around (a "Y" or "T") at the end.
- (6) Driveways, to the extent feasible, shall be sited to avoid areas of steep slope (15% or more), primary agricultural soils, and surface waters, wetlands and associated buffer areas (see Section 208.4 Steep Slopes) and to minimize the number and extent of stream crossings.
- (7) Shared driveways serving up to three (3) lots are encouraged and may be required for development subject to review by the DRB. Driveways serving four (4) or more lots shall be subject to approval by the Road Commissioner in accordance with Town Standards. For shared driveways, the interests of the owner of each lot shall be protected by an easement recorded in the deed of each lot, which provides for private joint maintenance of the common driveway.

f. Access (Curb Cut) Management Standards.

- (1) No lot shall be served by more than one (1) access (curb cut) except for:
 - A. a temporary or permanent access used only for farming or forestry purposes, as approved by the Selectboard;
 - B. a temporary access used for construction purposes or special events, as approved by the Selectboard;
 - C. a lot for which it has been determined, subject to subdivision, site plan or conditional use review by the DRB, that additional access is necessary to ensure vehicular and pedestrian safety; or that given physical site constraints (e.g., streams, wetlands, or steep slopes) strict compliance with this requirement would result in a less desirable site layout. For development subject to review by the DRB, the DRB may require, in consultation with the Road Commissioner or the Vermont Agency of Transportation, the elimination, consolidation and/or relocation of existing accesses to meet the requirements of these Regulations.
- (2) The width of an access shall be limited to the width as approved, and shall not extend along the length of road frontage. The installation of curbing, landscaping, or other edge-defining features may be required for accesses subject to review by the DRB.
- (3) Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.
- (4) Shared access is encouraged and may be required for development subject to review by the DRB. For shared access, the interests and responsibilities of each owner of each lot shall be protected by an easement recorded in the deed of each lot.

- (5) No access shall be provided to serve a lot located in another zoning district which is to be used for a use that is prohibited within the district in which the access is located.
- (6) Where a lot has frontage on two roads (e.g., a corner or through lot), access to the lot shall be provided from the secondary (less traveled) road unless otherwise approved by the DRB.
- (7) Driveways or access areas in multiple towns need to conform to each town's zoning regulations.

2. Streets and Roads.

- a. Required Road Improvements. Design of streets, roads and driveways serving three (3) or more lots shall conform to Town and State of Vermont approved standards and shall be constructed logically in relation to the topography so as to provide safe intersections, grades and alignments, and adequate drainage. As a condition of approval of any development, the applicant shall be required to provide the following street improvements:
 - (1) Construction of all new public and private roads shall coordinate with existing and future appropriate development adjacent to tracts.
 - (2) Permanent dead-end roads and cul-de sacs are specifically discouraged unless deemed necessary by the DRB due to physical site limitations or safety considerations. No dead-end road shall be allowed without a suitable turn around at its terminus. "T" or "Y" configurations suitable to topography are preferred, but a cul-de-sac with a radius of not less than thirty-five (35) feet and a minimum paved area of twenty (20) feet in width may also be considered as appropriate. The maximum length of a cul-de-sac or dead-end street shall be one thousand two hundred (1,200) feet. An exception to the requirements may be made for temporary dead-end streets. Provisions shall be made for temporary turn-arounds for temporary dead-end streets.
 - (3) Where existing roads provide access between the development and the state highway system, and the existing roads do not meet Town and State of Vermont standards for the traffic volumes which would occur once the development is built, upgrading of existing roads to the Town standards is required for the projected traffic volume. The preparation of a traffic impact study may be requested to identify impacts and mitigation measures necessary to ensure road safety and efficiency, the cost of which is to be borne by the applicant. When a proposed development necessitates an upgrade in the capacity of a public road to accommodate traffic generated by that development, the development may be disapproved until such upgrade has been completed, or phased in a manner which allows the improvement of said capacity to better accommodate the project. The applicant may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.
 - (4) All improvements necessary for street drainage, including but not limited to culverts, drainage pans, inlets, curbs and gutters are required. Generally, roadbeds, shoulders, ditches, and culverts shall be designed and maintained in conformance with the Vermont Better Backroads Manual, as most recently amended.
 - (5) Traffic control devices including signs and signals, street name signs, street lighting, striping and pedestrian crosswalks in conformance with the criteria contained in "The Manual of Uniform Traffic Control Devices" as adopted by the State of Vermont, if required.

- (6) Street medians and median landscaping, if required.
 - b. Class 4 Roads. The town, in accordance with state law, is not required to maintain Class 4 roads for year-round use. If a proposed access road or driveway intersects a Class 4 Town Highway, the DRB may deny an application. At minimum, the applicant shall upgrade the road to meet town driveway standards. Alternatively, and contingent upon the approval of the Selectboard, an applicant may be required to improve the intersected road to Class 3 Town Highway construction standards.
 - c. Private Roads. For the purposes of these Regulations, any access driveway or road serving four (4) or more lots shall be considered a private road, which must meet the Town of Cornwall Highway and Traffic Ordinance adopted by the Selectboard, August 15, 2000 and amended June 18, 2002, and the requirements of Section 608. Private roads may be taken over by the town only in accordance with town road policies and state requirements for the dedication and acceptance of such roads as public highways.
 - d. Obstruction of Vision. On a corner lot, within the triangular area formed by the intersection of two roads and a line joining them at points twenty-five (25) feet away from the intersection of the two roads intersecting, there shall be no obstruction to vision between the height of three (3) feet and ten (10) feet above the average grade of each street. The twenty-five (25) feet is to be measured along the center line of the roads intersecting.
3. **Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods or passengers, sufficient on-site service areas shall be provided. Service areas also may be required for emergency vehicles, waste disposal and collection, bus or van service, and other purposes as may be necessitated by the proposed use.
- a. Loading and services areas shall be located to the rear of the building it serves. When this is not feasible due to site constraints, it shall be located in the least visibly obtrusive location as viewed from the public right of way, and from adjoining residential areas, where applicable.
 - b. Adequate space for maneuvering in and out of loading and service areas shall be provided and located so as not to interfere with circulation to and within the site.
 - c. All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections, or from any internal road or access.
 - d. Provision shall be made for efficient snow and refuse removal and storage.
4. **Parking.** To ensure the safe and continuous flow of traffic and emergency vehicles, all structures and land uses shall be provided with adequate off-street parking spaces sufficient to meet the reasonable parking needs of employees, customers, visitors or other persons making use of the premises.
- a. For every structure or use hereinafter erected, altered or extended, there shall be a minimum of parking spaces as set forth below:
 - (1) Commercial/Retail: One (1) parking space for every 150 sq. ft. or fraction thereof of floor area.
 - (2) Business or Professional Offices: One (1) parking space for every 250 sq. ft. of gross floor area.
 - (3) Bed and Breakfast Lodgings: Two (2) parking spaces plus one (1) for each room for hire.
 - (4) Schools or Child Care Facilities: Three (3) spaces for every ten (10) children enrolled.
 - (5) Storage, Industrial and Warehouses: One (1) parking space for every 1,000 square feet of floor space or fraction thereof devoted to such use.

- b. Parking shall be located to the rear or interior side (side not fronting on public road) of buildings, unless otherwise permitted by the DRB due to site conditions which would prevent the reasonable use of the property if this standard were strictly enforced.
 - c. All required parking spaces shall have a minimum width of nine (9) feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient for year-round use.
 - d. Large, uninterrupted expanses of parking shall be avoided.
 - e. All off-street parking areas in excess of eight (8) parking spaces shall incorporate landscaped areas which at minimum equal 10% of the total parking area, unless otherwise approved by the Development Review Board. Landscaped areas shall be integrated into parking lot and stormwater management design, and shall be regularly maintained.
 - f. Parking areas may be required to be landscaped or screened from adjacent uses and from the roads in the vicinity.
 - g. Parking will be prohibited within setback areas when alternate space for parking is available elsewhere on the lot.
 - h. Parking areas shall be designed to prevent vehicles from having to back out into a public way.
 - i. Parking areas shall be surfaced, graded, drained and maintained to properly dispose of all surface water and minimize erosion. Run-off and eroded surface materials shall not flow onto adjacent streets or properties.
 - j. Permeable surfaces may be required for proposed parking areas to limit storm water runoff. Relocation or redesign of parking areas may be required to limit runoff and control erosion.
 - k. Non-residential parking lots shall be screened or hidden from public highway view and the view of persons in residential districts.
 - l. Non-residential parking lots adjacent to residential uses shall be at least 50 feet from the lot line.
 - m. Accessible spaces shall be provided in accordance with ADA requirements and shall count toward meeting the number of spaces required by these Regulations.
 - n. Electric vehicle charging stations shall be allowed in parking areas as an allowed accessory use in any zoning district. Development that will create more than 40 parking spaces for residents or employees shall provide at least 1 electric vehicle charging station per 20 parking spaces. Additional parking shall not be required when parking spaces are converted and reserved for charging vehicles and such spaces shall count towards the minimum parking required under this section.
 - o. Snow cleared from off-street parking areas shall be stored onsite without obstructing vehicular or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the subject property. Snow shall not be cleared or stored in such a manner that would damage required landscaping.
 - p. Parking waivers. The actual number of parking spaces required may be reduced by the DRB, depending which board has authority over the application in question.
5. **Sidewalks and Curbs.**
- a. A safe and attractive pedestrian environment shall be provided as appropriate to the use. Sidewalks or recreation paths may be required by the DRB where they are deemed necessary to safely accommodate

pedestrian circulation within the development or from the development to other points of interest such as schools, parks, shopping areas, etc.

- b. In general, curbs shall be provided where sidewalks are provided within road rights-of-way. Curbs may otherwise be omitted only upon recommendation of the DRB and upon demonstration that adequate drainage for streets and sidewalks will be provided.
6. **Financial Impacts.** An applicant may offer to or be required to provide for any or all of the expenses necessitated to comply these Regulations.

SECTION 320: WATER SUPPLY AND WASTEWATER DISPOSAL

1. No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable town and state regulations. Water supply and wastewater disposal systems shall be designed and installed by qualified professionals licensed by the state (i.e., a professional engineer, designer, site technician, installer).

ARTICLE 4. SPECIFIC USE STANDARDS

SECTION 401: ADAPTIVE REUSE OF STRUCTURES

1. The reuse of older structures for new uses is a sustainable choice in building as it conserves land, saves energy and resources, and preserves community character. Adaptive reuse in Cornwall is intended to allow for the continued, economically viable use of existing structures that have outlived their original purpose but contribute to the historic, architectural and/or cultural fabric of the community. Accordingly, alternative uses may be allowed within the current dimensions of an existing structure, subject to conditional use review under Section 607, and the requirements of this Section.
2. Structures eligible for adaptive reuse are limited to those which:
 - a. are no less than 50 years old,
 - b. have a minimum habitable floor area of 600 square feet; and
 - c. can safely house and support the intended use.
3. For adaptive reuse of structures that have historical or architectural significance to the town, and are listed, or are eligible for listing on the Vermont Historic Sites and Structures Survey for the Town of Cornwall, maintained by the Vermont Division for Historic Preservation, the DRB may consult with the Vermont Division for Historic Preservation; and/or require the applicant to submit an independent evaluation prepared by a qualified architectural historian, to be paid for by the applicant, in order to make a determination regarding the structure's historic or architectural significance and structural integrity.
4. Structures determined to be eligible for adaptive reuse by the DRB may be used for any use allowed within the district the structure is located, subject to conditional use review under Section 607:
5. It shall also be demonstrated, to the satisfaction of the DRB that:
 - a. adequate water supply capacity, wastewater system capacity, and off-street parking exist to accommodate the proposed use; and
 - b. any proposed exterior renovations will be compatible with the original architectural design of the structure and,
 - c. any proposed exterior renovations of significant historic structures, maintain the structure's historic integrity in accordance with accepted standards for the treatment of historic properties, as set forth in the most recent edition of the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

SECTION 402: ACCESSORY DWELLINGS

1. In accordance with the Act [§ 4412(1)(E)], one (1) accessory dwelling unit that is located within or attached to a single family dwelling, or within an accessory structure to the single family dwelling, may be allowed as a permitted use in any zoning district in which a single family dwelling is allowed, subject to the issuance of a zoning permit by the Zoning Administrator under Section 604, and compliance with all the following:

- a. The single family dwelling, or the accessory dwelling, must be occupied by the owner of the single family dwelling, or a member of the owner's family.
- b. The property has sufficient wastewater capacity to serve both the single family dwelling and the accessory dwelling unit.
- c. The accessory dwelling unit must be clearly subordinate to the primary single family dwelling, and shall not exceed thirty (30) percent of the total habitable floor area of the single family dwelling or 1,000 square feet whichever is greater.
- d. Applicable setback, coverage, and parking requirements specified in these Regulations are met.

SECTION 403: ACCESSORY USES AND STRUCTURES

1. Accessory uses and structures may be located on a lot provided front, side, and rear yard setbacks and lot coverages are adhered to for the district involved, subject to the issuance of a zoning permit by the Zoning Administrator under Section 604.
2. Where more than one accessory use or structure is allowed on a lot, each shall be of a type or class allowed in the zoning district in which the land and the structures are located.
3. Every accessory structure shall be located at least five feet from any other structure on the lot unless it forms part of, or is attached to, the other structure.

SECTION 404: CAMPERS

1. It shall be unlawful for any person to park a camper except:
 - a. In an approved campground;
 - b. In an approved camper sales lot; or
 - c. The owner of a camper may park it on his/her own property in the rear or side yards, providing that it is parked behind the face of the principal building, if possible, and no closer than six feet to any lot line. It shall not be used as living quarters for more than 90 days per year and shall not be hooked up to any water or sewage facility. Invitees may also park campers in the same manner as required of any owner on his/her own property. If this time limit is exceeded, it shall be deemed an accessory or single family dwelling, and shall be subject to all applicable requirements of these Regulations pertaining to an accessory or single family dwelling.

SECTION 405: EARTH EXTRACTION

1. The removal of soil, sand, gravel, stone, or water for sale, except when incidental to construction of a building or other improvement on the same premises, is a conditional use in the districts in which it is allowed. The following provisions shall apply:
 - a. Before approval of any new soil, sand, gravel, or stone operation, or extension thereof, a performance bond may be secured from the Applicant sufficient to ensure that upon completion of the extraction

operations the abandoned site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of the plan.

- b. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pits.
 - c. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched, and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
 - d. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Administrator.
 - e. No excavation, blasting, or stockpiling of materials shall be located within two hundred feet of any street or other property line.
 - f. No power-activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
 - g. All excavation slopes in excess of one to two shall be adequately fenced as determined by the Zoning Administrator.
 - h. Extension of an existing non-conforming operation shall not be permitted.
 - i. Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.
2. The DRB may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

SECTION 406: FAMILY CHILD CARE HOME AND CHILD CARE FACILITY

1. A **family child care home** is a day care facility licensed or registered by the state which provides for care on a regular basis in the caregiver's own residence for not more than ten (10) children at any one time. Of this number, up to six (6) children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of these regulations, care of a child on a part-time basis shall mean care of a school-age child for not more than four (4) hours a day. These limits shall not include children who reside in the residence of the caregiver; except:
 - these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
 - during the school summer vacation, up to twelve (12) children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3).

- a. Family child care homes shall be considered a one-family residential use of property in all districts that allow residential development or in pre-existing residential units.
2. A **child care facility** is any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of 12 or more children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including a kindergarten approved by the state board of education. 33 V.S.A. § 4902(2).
 - a. A child care facility requires conditional use review in any district that allows such use.
3. Child care facilities that are **exempt** from state licensure and registration through 33 V.S.A. § 3502(b) are not regulated under these provisions but may be regulated in other sections of these Regulations. Such exemptions include:
 - a. Persons providing care for children of not more than two families;
 - b. Hospitals or establishments holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes;
 - c. Day care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities;
 - d. Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulation by the Department of Education (33 V.S.A. § 3502(b)(1-4));
 - e. A state registered or licensed family child care home operated within a single family dwelling shall be considered by right to constitute a permitted single family residential use of the property.

SECTION 407: FILLING OF LAND

1. In any district a Zoning Permit, including conditional use approval by the DRB, is required for the deposition of rock, concrete, stone, gravel, sand, cinders, stumps, and soil used for disposal purposes. A Permit may be issued provided the Applicant demonstrates that the activity will not significantly alter existing drainage patterns, cause soil erosion, or result in any hazard or expense to the community. State laws governing the filling of land must be adhered to.

SECTION 408: MOBILE FOOD TRUCKS

1. Mobile food trucks are permitted in all districts and subject to the follow regulations.
 - a. Mobile food truck owners shall be registered and maintain a valid business tax certificate from the State of Vermont, as well as all required insurances and permits required by the state.
 - b. Mobile food trucks shall be limited to the sale of food and beverage items.
 - c. Mobile food trucks shall receive a catering license from the Selectboard prior to establishing any business operations in Cornwall.

- d. The mobile food truck shall not obstruct or interfere with the free flow of pedestrian or vehicular traffic, including but not limited to access to or from any business, public building, or dwelling unit, nor shall it restrict sight distance at access areas.
- e. The mobile food truck operator shall provide one trash receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic. All litter or debris generated within a minimum of a 25-foot radius of the food truck shall be collected and removed by the mobile food truck operator.
- f. Mobile food trucks operations shall occur within a paved, level parking area, where it can be demonstrated that adequate parking spaces are available for patrons.
- g. Where located with 500 feet of a dwelling unit, mobile food trucks may only operate between 7 a.m. and 9 p.m..
- h. No amplified music or loudspeakers shall be permitted by a mobile food truck.

SECTION 409: FORMULA BUSINESS

- 1. In order to support small-scale local businesses and to maintain the unique rural character of Cornwall, any new or expanded formula business may only be approved subject to conditional use review under Section 607. Additionally, the DRB may only approve such project if the applicant demonstrates that:
 - a. There is no availability of the same business or similar business like the proposed project within the town and the surrounding region (within 15 miles).
 - b. The proposed business will add diversity to and complement the mix of businesses in the area.
 - A. The DRB may, at their discretion, require an applicant for a formula business to prepare and submit an economic impact analysis, at the applicant's expense, which must demonstrate that the project will not have an undue adverse impact on the continued use, development, and vitality of other businesses within the Town of Cornwall.
 - c. The proposed business will serve a community need or local demand.
 - d. The proposed business and architecture is compatible with the existing architectural and aesthetic character of the area and will not materially alter the identity or unique sense of place.
 - A. Off the shelf, standardized franchise architecture is not allowed anywhere in Cornwall. The proposed project must utilize a unique visual appearance that reflects or compliments the character of the area or district it is located, and not project a visual appearance that is homogenous with its elements in other communities.
 - B. Buildings shall be designed so that facades, signs, and other appurtenances will have an integrated, harmonious and attractively arranged appearance, and in a size, scale and manner, which will not adversely affect the appearance of surrounding developments and the character of the area as defined in the town plan and these regulations. This includes harmonizing color schemes, trademark, service mark, signage and décor with the surrounding character of the area.
 - i. No drive-thru windows shall be allowed.
 - ii. The size of any individual formula business shall not exceed 2,500 square feet of gross floor area.

- e. The existing vacancy rates in town are low enough (<5%), which support the need for new development (as opposed to adaptive reuse) to accommodate the proposed formula business. If vacancy rates are higher than 5%, and adaptive reuse is not feasible, then the applicant must demonstrate why it is a hardship and not economically possible.
- f. There shall not be an undue adverse impact to the public safety or character of the area from increased traffic. At the discretion of the DRB, the applicant may be required to submit a traffic study, prepared by a registered engineer, and at the applicant's expense, that demonstrates there will be no undue adverse impact from traffic.
- g. No internally illuminated signs shall be allowed. In place of box-type or internally illuminated signs, the DRB may require use of halo-lit signs and die-cut metal sign panels with individually illuminated letters or logos, and may also require alternative materials or lighting solutions, and adjustments to the scale of trademark logos and graphics.

SECTION 410: FREESTANDING DISHES AND ANTENNAS

- 1. The installation of freestanding dishes and antennas (Not exempt pursuant to Section 602) shall meet the minimum setback, lot coverage, and height requirements for the district in which it is located, and shall be permitted only in the rear yard of a dwelling or other building served. Alternative siting will be permitted by the DRB if the following criteria are met:
 - a. Quality reception requires alternative siting.
 - b. Screening that does not impair reception is used to minimize the visibility of the installation from the public right-of-way and neighboring properties.

SECTION 411: HOME INDUSTRY

- 1. Home industry, as distinguished from "home occupation" under Section 412, may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 606, and the following provisions:
 - a. The home industry shall be conducted on-site by residents of the dwelling, and up to five (5) full-time nonresident employees at any given time.
 - b. The home industry shall not change the character of the neighborhood, nor result in a change in the outward appearance of the dwelling or the accessory structure.
 - c. Adequate off-street parking shall be provided for residents, employees, delivery vehicles and customers in accordance with Section 319.
 - d. The home industry shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home industry is located.
 - e. Retail operations are allowed as a portion of the home industry but should be secondary to the home industry's primary function.
 - f. The following heavy industrial activities, and all others not meeting the conditions noted herein, will not constitute a home industry:

- A. Smelters or blast furnaces;
 - B. Abbatoirs, rendering plants, hide tanning or curing plants;
 - C. Manufacture or processing of fertilizer, bone, rubber, asphalt, ammonia and/or chlorine;
 - D. Manufacture or refining of petroleum, gas, or explosives;
 - E. Bulk storage of wholesale fuel oil, butane, propane or gasoline;
 - F. Junkyards, machinery wrecking yards; and
 - G. Unenclosed manufacturing or processing of goods.
- 2. The adaptive re-use of existing buildings is encouraged.
 - 3. The storage of hazardous materials anywhere on the premises shall be limited to those materials necessary for the operation of the home industry and shall be stored in accordance with all applicable state and federal regulations.
 - 4. Any exterior storage of materials and equipment associated with the home industry shall be limited to a clearly designated area approved by the DRB. The area shall meet all applicable setbacks and avoid undue adverse impacts to neighboring properties or the public right-of-way.
 - a. The DRB may require greater setbacks as a condition of approval.
 - b. The DRB may prohibit storage of materials.
 - 5. Commercial vehicles associated with the home industry shall be parked within designated parking areas approved by the Development Review Board.
 - 6. The DRB may require greater setbacks as a condition of approval.

SECTION 412: HOME OCCUPATION

- 1. No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:
 - a. The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures;
 - b. The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted;
 - c. No traffic shall be generated which would be uncharacteristic of the neighborhood;
 - d. Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.

SECTION 413: MOBILE, MANUFACTURED OR PREFABRICATED HOMES

1. Mobile, manufactured or prefabricated homes shall be considered the same as conventional homes except in a mobile home park.

SECTION 414: MOBILE HOME PARKS

1. Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and State law. Existing Mobile Home Parks shall be considered pre-existing non-conforming uses, unless they specifically comply with all provisions of these Regulations. Nothing in these bylaws shall prohibit the replacement or improvement of homes on lots in existing parks. New Mobile Home Parks shall be allowed under the PUD provisions of these Regulations on the same terms and conditions as Cornwall may allow any other type of housing in a specific area as governed by Cornwall's Regulations.

SECTION 415: MOTOR VEHICLE SERVICE STATIONS

1. A motor vehicle service station lot shall not be located within three hundred feet of any lot occupied by a school, hospital, library or religious institution.
2. Lot size, frontage and depth shall conform to acreage requirements of the district.
3. Service devices shall be located at least fifty feet from the street line and side and rear lot lines.
4. All hazardous material storage shall conform to applicable State and Federal regulations.
5. All automobile parts and dismantled vehicles are stored within a building, and no repair work is to be performed outside a building.
6. Signs will conform the sign requirement within Section 317
7. The storage of vehicles or equipment is not permitted except in an area which is screened as required in Section 313.

SECTION 416: PERSONAL LANDING AREAS

1. Personal landing areas (PLA) are limited to the Agricultural Residential (AR) District, to the landowner's personal aircraft and occasional use by others.
2. All personal landing areas are conditional uses and as such are subject to review by the DRB. Upon receiving an application for a conditional use permit for a personal landing area, the DRB shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant a plan, drawn to scale, showing the dimensions, contours, and elevation of the lot; the size, height, and location on the site of existing and proposed structures; the location of the proposed runway; the location and elevations of streets and rights of way; existing and proposed landscaping and all other physical features; takeoff and landing patterns; and the location of adjacent and nearby structures and property lines. The DRB shall also obtain from the

applicant, prior to the hearing, a statement of proposed frequency of flights, proposed hours of operation, and type of aircraft proposed to be operated at the PLA.

3. In reviewing each application, the DRB shall consider the impact of the proposed PLA upon the surrounding community, with special attention to surrounding residents' needs for peace, safety and privacy. Any lighting element required for the safe operation of the personal landing area shall be closely reviewed by the DRB in relation to its impact on the surrounding area. The DRB may apply conditions regarding the frequency of use, hours of operation, and other criteria necessary to mitigate any potential negative impacts.
4. As a condition of approval, the DRB shall specifically require that all regulations of the Vermont Agency of Transportation, the District Environmental Commission, the Federal Aviation Agency, and any other agencies pertaining to the licensing, safety, and insurance of aircraft and personal landing areas and their operation shall apply. Any permits from said agencies and regulations of said agencies shall be filed annually with Town officials. The landowner shall assume full responsibility for all air and ground operations at a personal landing area.

SECTION 417: PUBLIC FACILITY OR UTILITY

1. Pursuant to 24 V.S.A. § 4413 the following uses may only be regulated with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-road parking, loading facilities, traffic, noise, lighting, landscaping or screening requirements and only to the extent that these Regulations do not have the effect of interfering with the intended functional use:
 - a. State or community owned and operated institutions and facilities.
 - b. Public and private schools and other educational institutions certified by the state Department of Education.
 - c. Churches, and other places of worship, convents and parish houses.
 - d. Public and private hospitals.
 - e. Regional Solid Waste Management Facilities certified under 10 V.S.A. Chapter 159.
 - f. Hazardous Waste Management Facilities for which a notice of intent to construct has been received under Section 6606(a) of Title 10.
2. It is the intent of these Regulations to regulate these facilities to the maximum extent allowable under law. The uses noted above must meet applicable district requirements, shall be subject to review by the DRB pursuant to the applicable procedure and criteria governing site plan review under Section 606, and may be subject to conditional use review under Section 607; however associated conditions of approval shall not exceed allowed regulation, as specified in the Act and stated herein.
3. In accordance with the Act [§ 4413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Utilities Commission (under 30 V.S.A. § 248) are specifically exempted from municipal land use regulations. This includes solar and wind generation facilities that are "net metered" and connected to the electric grid. Such facilities, however, shall conform to policies and objectives specified for such development in the Town Plan.

SECTION 418: PUBLIC UTILITY SUBSTATIONS

1. Public utility substations and similar utility structures, where permitted, shall comply with the following site planning standards:
 - a. The facility shall be surrounded by a fence which is set back from the property lines in conformance with the district regulations for front, side, and rear yards.
 - b. A landscaped area at least twenty-five feet wide shall be maintained in front, rear, and side yards. The landscaping shall be configured to provide the maximum screening of the facility from adjacent roads and properties and shall be designed to liberally use copses of mixed native species of trees.
 - c. Transformers shall be the best available to reduce noise by the maximum level possible;
 - d. Lighting shall be minimized and shall comply with Section 315.3 of these Regulations.
 - e. Maintenance and construction, except for emergency repairs, shall take place Monday –Friday between the hours of 7:00 a.m. and 7:00 p.m.

SECTION 419: SHORT-TERM RENTALS

1. The town recognizes there are benefits of Short Term Rentals to homeowners, visitors and the community. It is also important to ensure that these types of rentals do not create a nuisance, change the rural character of the community nor adversely affect the neighborhood in which the Short Term Rental is located. To ensure that Short Term Rentals provide positive benefits to the community they are subject to the following provisions.
 - a. Short-term rentals are allowed on properties owned by permanent residents of Cornwall.
 - b. Homeowners are responsible for complying with the Vermont Department of Taxes Rooms and Meals tax rules and regulations.
 - c. All associated parking shall be on-site in designated spaces and comply with Section 319.
 - d. Rubbish service shall be provided and containers shall be maintained out-of-sight, not viewed from the street.
 - e. Notice to renters of house rules pertaining to parking, rubbish, noise, parties, etc. shall be visibly displayed in the dwelling.
 - f. Occupancy shall be restricted to two adults per bedroom.
 - g. The name, address and telephone number of a manager shall be filed with the permit application. The permit holder shall update this information annually by January 31st of each year.
 - h. Signs and other outside indications that the dwelling is used a Short-Term Rental are not allowed.

SECTION 420: RENEWABLE ENERGY SYSTEMS

1. Cornwall encourages the use of alternative energy generation systems as accessory uses to residential or commercial or other structures and requires conditional use review.
2. Renewable energy systems not exempt from these Regulations as set forth in Section 602, whether as a part of a building or incidental to a building, are an accessory use and require a conditional use permit.

3. In the Village District, renewable energy systems are preferred to be integrated with the building or located on rooftops.
4. Renewable energy systems are prohibited on lands above 1,000' and lands contained within the Ecologically Significant Areas shown on the Special Features Overlay.
5. Project developers are strongly encouraged to meet with the DRB in advance of their application to discuss siting of any ground-mounted solar system or wind energy generation system. This IS NOT a requirement of state law but rather a good neighbor policy which is intended to benefit both the applicant and the Town in the development of renewable energy projects.
6. The renewable energy system shall be considered abandoned if it is out-of-service or otherwise unused for a continuous 1-year period. This 1-year period may be extended by the Zoning Administrator if evidence is provided to demonstrate that repairs or maintenance is actively underway, or if an insurance claim for damage to the system has not been settled. If the system is determined to be abandoned, the Zoning Administrator shall notify the owner in writing, and the owner shall take the system down within 3 months of this notification.
7. The following requirements shall also be met:
 - a. Materials. Each project must be designed and constructed of materials, colors, and textures that blend into the surrounding natural or built environment to the maximum extent feasible.
 - b. Siting. A project's location in the landscape constitutes a critical element in the aesthetic siting of a project. Poor siting cannot be adequately mitigated. Accordingly, the first element any developer must consider is the proposed site's aesthetic impact on the surrounding landscape.
 - (1) The siting of renewable energy projects should be done in such a manner that the project creates no greater burden on neighboring property owners or public investments than it does on the property on which it is sited.
 - (2) A project shall be sited within a parcel in such a manner as to make maximum use of pre-existing vegetation, hedgerows, hills, ridges, buildings, and other topographical features and structures that naturally screen the project, thereby minimizing the need for the installation of new screening materials, where applicable.
 - (3) Project's shall only be located in the rear or side yard and must not be highly visible from public streets or detract from other major character defining aspects of the site. Visibility from adjacent properties shall also be reduced to the greatest extent possible (through siting, landscaping, or other screening method) while still maintaining access to the renewable energy source.
 - c. Decommissioning. In order to preserve the aesthetic qualities of Cornwall's rural character all renewable energy projects shall be decommissioned at the end of their useful life and the property shall be restored to its pre-project condition, or better. Developers of all projects 100 kW and greater shall provide the town with appropriate assurances to guarantee funding exists to decommission the project. The end of the useful life of the project shall be deemed to occur when less than 20 percent of the project is used for its original purpose.
 - d. Building Integrated and Rooftop Solar.
 - (1) Solar panels or other solar devices on roofs shall be placed on the least visually conspicuous area of a structure consistent with the requirements of maximum access to the sun. Location on a non-

character defining roofline of a non-primary elevation (not readily visible from public streets) is preferred. However, solar shingles may be added to a roof surface visible from a primary public way if low or non-reflective shingles are used. Publicly visible solar devices mounted on roofs shall be evaluated on the basis of: size, least visible/high-performance location, panel arrangement and design, system infrastructure, color contrast with roof, glare, and impact on historic integrity of the structure. Shadow tolerant panels should also be considered for use in a less visible location.

- (2) Solar panels and devices shall run parallel to the original roofline and be located so as not to rise above the roofline, or alter a historic roofline or character-defining features such as dormers or chimneys.
- (3) Collectors on sloped roofs shall be mounted flat on the surface and at the same pitch. Removing historic roofing materials in order to add solar panels is discouraged.
- (4) On flat roofs, solar panels and devices shall be mounted behind a building parapet or setback from the edge of the roof to minimize visibility and may be set at a pitch and elevated if not highly visible from public streets.
- (5) The smallest solar panel or device shall be used consistent with operational requirements. Scattered or disjointed arrays are not allowed. Avoid interrupting arrays with rooftop projections such as vents and skylights.
- (6) Solar panels, solar devices, mechanical equipment and mounting structures shall use non-reflective finishes such as an anodized finish. Coordinate roof and building color and pattern as much as feasible with color and pattern of solar panels and solar devices. Darker roofing colors are preferred.
- (7) Solar devices shall be used in non-historic windows, walls, siding or shutters that do not face public streets.
- (8) Use building-integrated solar panels and devices in the initial design of new structures.

e. Ground Mounted Solar.

- (1) Ground mounted facilities shall minimize views of the project from public roadways and from adjacent residential properties using the screening standards described in Section 313 of these Regulations.
- (2) Preferred ground mounted solar sites generally have the following characteristics:
 - A. Located in close proximity to, or screened by, existing large-scale commercial, industrial or agricultural buildings;
 - B. Proximity to existing hedgerows, evergreen vegetation, berms, hills, or other topographical features that naturally screens some aspects of the proposed project;
 - C. Reuse of former brownfields or otherwise impacted property, which otherwise complies with the set-back requirements of these Regulations.
- (3) Poor or less desirable ground mounted solar sites generally have the following characteristics:
 - A. No natural screening;
 - B. Topography that causes the project to be highly visible against the skyline;
 - C. Prominently visible from important scenic and cultural vantage points such as the state scenic byway or historic districts; or

- D. A location that requires clear-cutting of four (4) or more acres.
- (4) The minimum setbacks for ground mounted solar systems shall be:
 - A. from a State or municipal highway, measured from the edge of the traveled way:
 - i. 200 feet for a facility with a plant capacity exceeding 150 kW; and
 - ii. 100 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.
 - B. From each property boundary that is not a State or municipal highway:
 - i. 100 feet for a facility with a plant capacity exceeding 150 kW; and
 - ii. 50 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.
- (5) The setbacks under this Section are not required for a facility with a plant capacity equal to or less than 15 kW. Projects equal to or less than 15 kW shall comply with the setback requirements of the district it is located in.
- (6) The requirements of the setbacks in this section may be decreased to the minimums set forth in Act 56 if the project developer can demonstrate to the Selectboard that the topography of a site naturally screens 100% of project view from the boundary line in question.
- f. Wind Turbines.
 - (1) Wind energy systems are prohibited for lots under one half (1/2) acre.
 - (2) For properties between one half (1/2) acre and one (1) acre in size, the total height of the system (including tower and turbine blades) may be up to eighty (80) feet. For properties one (1) acre or more in size, the total height of the system (including tower and turbine blades) shall not be more than one hundred fifty (150) feet.
 - (3) The tower base shall be set back a distance equal to or greater than the total height of the system (including blade, rotor, or other vertical elements) from property lines, public road rights of way, and overhead utility lines that provide service beyond the subject property. Guy wire anchors and other accessory elements may extend to the setback for the zoning district in which it is located.
 - (4) The system shall not be illuminated.
 - (5) Climbing access to the tower must be restricted. For rotors twenty (20) feet or more in diameter, the area around each wind turbine and any appurtenant structure (other than an access road) shall be completely fenced for security to a height of 6 feet and gated. One sign no greater than 1 square foot shall be posted adjacent to the entry gate, indicating the name of the wind facility owner and a 24-hour emergency telephone number.

SECTION 422: RESIDENTIAL CARE OR GROUP HOME

- 1. A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap

or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review.

SECTION 423: RURAL ENTERPRISES

1. **Purpose.** This section recognizes that Vermont's rural areas are characterized by working landscapes where resource-based economic activities have traditionally flourished. The purpose of this section is to accommodate rural enterprises that support economically viable farm and forest lands in the region by:
 - a. Adding value to local farm or forest products;
 - b. Direct marketing of local farm or forest products;
 - c. Engaging in agritourism or education; and
 - d. Offering goods or services needed for farming or forestry.
2. **Applicability.** Rural enterprises not otherwise provided for in these regulations may be allowed in any district following review and approval by the DRB as a conditional use in accordance with the provisions of this section.
3. **Standards.** A rural enterprise shall meet the following standards:
 - a. Retail or food service or manufacturing uses shall have the sale or use of locally produced farm or forest products as a core element of the business.
 - a. Local farm or forest products shall be interpreted to be within the State of Vermont.
 - b. Any agricultural buildings converted, modified or expanded to accommodate the business shall retain their original form, massing and style, particularly as viewed from public vantage points.
 - c. If the enterprise is located in the Agricultural Residential district:
 - (1) New structures shall be similar in form, massing and style to residential or agricultural buildings typical in the area.
 - (2) The overall character of the property as viewed from public vantage points shall be predominately rural and agricultural and shall not be predominately commercial or industrial.
 - d. Any agricultural land and current or former agricultural buildings may be used or adaptively reused for public assembly uses.

SECTION 424: STORAGE OF FLAMMABLE LIQUIDS

1. All storage for flammable liquids shall comply with applicable State and Federal regulations. Storage of explosives, where allowed, requires conditional use review and approval by the DRB.

SECTION 425: TELECOMMUNICATIONS FACILITIES

1. The purpose of this provision is to preserve the character and appearance of the Town of Cornwall and to regulate the location of commercial wireless telecommunications services. Small-scale devices for personal

use (satellite dishes, antennas, etc.) are exempt from this regulation. Commercial structures shall comply with the following provisions:

- a. The use of existing structures to locate wireless telecommunications antennas is encouraged and will be subject to only Site Plan Review by the DRB.
 - (1) Wherever possible, communications antennas must be mounted on existing structures, such as silos or water towers, and camouflaged to blend with their existing surroundings.
 - (2) Siting of structures and antennas must be accomplished in a manner designed to limit the visual impact on Cornwall's countryside and ridgelines.
 - (3) Structures and antennas must be camouflaged to blend in with their surroundings to the greatest extent possible.
 - (4) The DRB will conduct its review pursuant to the site plan criteria contained in these Regulations. Applications submitted must meet the requirements for site plan review. Additionally, at the discretion of the DRB and pursuant to 24 V.S.A. § 4440, the DRB is authorized to hire qualified professionals, to be paid by the applicant, to determine an application's compliance with these Regulations.
- b. A new telecommunications tower will be allowed as a conditional use in the Agricultural Residential District only.
 - (1) It will be allowed only after the Applicant has demonstrated that no existing structure is suitable for their proposed use within a 30-mile radius of the proposed site and the Applicant has agreed to allow co-location on the new structure.
 - (2) Pursuant to 24 V.S.A. § 4440, the DRB is authorized to hire qualified professions, to be paid by the applicant, to determine an application's compliance with these Regulations.
- c. All telecommunications structures and antennae must be maintained in accordance with the requirements of permits granted. Abandoned or unused structures or antennae must be removed from the property within 180 days of cessation of their use and the DRB may require a bond or other guarantee be posted with the Town to cover such removal.

SECTION 426: TEMPORARY STRUCTURES AND USES

1. **Temporary Structures.** Structures used for temporary office or storage space, including trailers and mobile homes, or for special events requiring a permit may be allowed as a temporary accessory structure to an existing or permitted use in any zoning district, in accordance with the following:
 - a. Such structures shall not be used for dwelling purposes, except for campers, tents or yurts permitted to house participants at special events.
 - b. A temporary structure may be issued a zoning permit by the Zoning Administrator, for a specified period of time not to exceed one (1) year from the date of issuance, with the provision that the structure will be dismantled and/or removed upon expiration of the permit. The Zoning Administrator may renew a permit for a temporary structure for a period not to exceed one (1) additional year.
2. **Temporary Uses (Special Events).** Special events (e.g., weddings, receptions, concerts, festivals, fairs and other cultural events, trade and antique shows), may be allowed as a temporary accessory use to an existing

use within any zoning district, provided that such use occurs for no more than seven (7) days within any 12 month period, and adequate off-street parking and circulation, sanitary and trash collection facilities are provided. Temporary uses may be issued a zoning permit by the Zoning Administrator, for a specified period of time not to exceed one (1) year from the date of issuance, with the provision that the use will be discontinued upon the expiration of the permit. In addition:

- a. The following uses or activities are specifically exempted from the requirements of this section, and shall not require the issuance of a zoning permit:
 - (1) Family or household events associated with a residential use (e.g., weddings, reunions). Such events may also include temporary shelters on-site, such as campers or tents, to house guests.
 - (2) Auctions, yard and garage and sales, in accordance with Section 602.
 - (3) Special events that are held in an approved events or convention facility.
- b. No zoning permit shall be issued for any event or use which also requires the approval of the Cornwall Selectboard until such approval is issued.
- c. A temporary structure located within the Flood Hazard Fluvial Erosion Overlay District is subject to conditional use review under Section 607, and must meet applicable requirements for development within these districts.

ARTICLE 5: ADMINISTRATION AND ENFORCEMENT

SECTION 501: ZONING ADMINISTRATOR

1. These Regulations shall be administered and enforced by a Zoning Administrator, nominated for a three (3) year term by the Planning Commission and appointed by the Selectboard. The Zoning Administrator may be removed from office for cause at any time by the Selectboard after consultation with the Planning Commission. The Zoning Administrator shall be compensated in an amount established by the Selectboard.
2. In accordance with 24 V.S.A. §4448 and §4449, the Zoning Administrator shall administer these Regulations literally, and strictly, according to the plain meaning of its term, and shall have no authority to permit land development that is not in conformance with it. In addition, the Zoning Administrator shall administer this Regulation uniformly. The Zoning Administrator shall inspect land developments, maintain records, and perform all other necessary tasks to carry out the provisions of these Regulations, including providing interested persons with forms and information necessary to obtain municipal permits and coordinating a unified effort on behalf of the municipality in administering its development review programs.
3. The general powers of the Zoning Administrator are to grant or deny zoning permits, to administer and enforce these Regulations and any other land use regulations, to assist the Development Review Board and the Planning Commission, and to assist applicants and all other persons in the zoning application process. Specific powers vested in the Zoning Administrator related to processing and reviewing applications are enumerated in these regulations.
4. In the absence or disability of a Zoning Administrator, or in case of a conflict of interest, an acting Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard. The acting Zoning Administrator is empowered in the same manner as provided in (1), (2) and (3) of this Section.

SECTION 502: PLANNING COMMISSION

1. The Planning Commission shall consist of seven (7) members elected by the voters in accordance with the Act [§4323(c)]. Vacancies shall be filled by appointment of the Selectboard only until the next meeting of the municipality, at which time the voters shall elect a commissioner to fill the unexpired term. Elected commissioners may not be removed by the Selectboard. The Planning Commission's duties with respect to these Regulations shall include:
 - a. Nominating the Zoning Administrator with approval of the Selectboard to administer these Regulations, as provided for in 24 V.S.A. § 4448(a).
 - b. Preparing and presenting to the Selectboard amendments to these Regulations and other regulations as permitted by the Act.
 - c. Preparing and updating the Town Plan for consideration by the Selectboard every eight (8) years and preparing and presenting amendments to the Plan as necessary.
 - d. Have party status to respond to projects under "Act 250" and "Section 248" review and other state level reviews.

SECTION 503: DEVELOPMENT REVIEW BOARD

1. The Development Review Board (DRB) shall consist of five (5) members, and two (2) alternates, the numbers and terms of appointment to be determined by the Selectboard. Members of the DRB shall be appointed by the Selectboard subject to the provisions of §4460 of the Act. Any member of the DRB may be removed for cause by the Selectboard upon notice of written charges and after a public hearing.
2. The DRB shall have all powers and duties as set forth in the Act to administer the provisions of these Regulations, including but not limited to the power to hear and act upon:
 - a. Appeals from any decision, act or failure to act by the Zoning Administrator.
 - b. Applications for requests for variances. (Section 511)
 - c. Applications for requests for waivers. (Section 510)
 - d. Applications for conditional use approval. (Section 607)
 - e. Applications for site plan approval. (Section 606)
 - f. Applications for planned unit developments. (Section 609)
 - g. Applications for subdivision approval. (Section 608)
 - h. Demolition of historic buildings. (Section 205.3.a (5-7))
 - i. Any other reviews as required in these Regulations.

SECTION 504: PUBLIC NOTICE

1. A warned public hearing shall be required **for conditional use review, variances, appeals of decisions of the Zoning Administrator, and final plat review for subdivisions**. Any public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the public hearing by all the following:
 - a. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected. The Zoning Administrator or clerk or chair of the DRB shall place the notice in the paper.
 - b. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made. The Zoning Administrator, Town Clerk, or clerk or chair of the DRB shall post notices two places within town. The Zoning Administrator or clerk or chair of the DRB shall also be responsible for posting the property.
 - c. Written notification to the applicant or appellant and to owners of all properties abutting the property subject to development, without regard to any public right-of-way, and in any situation in which a variance is sought regarding setbacks from a State highway, also including written notification to the Secretary of Transportation.
 - (1) The notification shall state the name of the applicant, the location of the property in question, the nature of the application, the date, time, and place of hearing, the action sought, the place and time where additional information can be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

- (2) The applicant shall be responsible for notifying all abutting landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
 - (3) At the first hearing, the applicant shall demonstrate compliance with this notification provision by producing a copy of the letter sent, a list of those it was sent to and the receipts of either certified mail, hand delivery or sworn certificate of service. The applicant need only demonstrate that the letter was sent as required by these regulations, and not that it was received. If the applicant fails to reasonably demonstrate that they sent notice to the abutters and any other interested party, the DRB may postpone the hearing.
 - (4) In the event that a properly warned public hearing is cancelled at no fault of the applicant, either due to a weather event, lack of quorum, or similar, the DRB assumes the responsibility for written notification of the new hearing date to owners of all properties abutting the property subject to development and shall follow the same procedures as required of the applicant as set forth above.
2. Public notice for hearings on **all other types of development review**, including site plan review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall include at a minimum all the following:
 - a. Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. § 312(c)(2). The Zoning Administrator, Town Clerk, or clerk or chair of the DRB shall post notices two places within town. The Zoning Administrator or clerk or chair of the DRB shall also be responsible for posting the property.
 - b. Written notification to the applicant or appellant and to owners of all properties abutting the property subject to development, without regard to any public right-of-way.
 - (1) The notification shall state the name of the applicant, the location of the property in question, the nature of the application, the date, time, and place of hearing, the action sought, the place and time where additional information can be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
 - (2) The applicant shall be responsible for notifying all abutting landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
 - (3) At the first hearing, the applicant shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent to and the receipts of either certified mail, hand delivery or sworn certificate of service. The applicant need only demonstrate that the letter was sent as required by these regulations, and not that it was received. If the applicant fails to reasonably demonstrate that they sent notice to the abutters and any other interested party, the DRB may postpone the hearing.
 - (4) In the event that a properly warned public hearing is cancelled at no fault of the applicant, either due to a weather event, lack of quorum, or similar, the DRB assumes the responsibility for written notification of the new hearing date to owners of all properties abutting the property

subject to development and shall follow the same procedures as required of the applicant as set forth above.

3. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Zoning Administrator or DRB where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the DRB or the Environmental Court, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

SECTION 505: MEETING AND HEARING REQUIREMENTS

1. In accordance with the Act [§4461], all meetings and hearings of the DRB, except for deliberative and executive sessions, shall be open to the public, and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810.
2. The DRB shall ensure that minutes are kept of all proceedings, excluding executive and deliberative sessions, 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 filed in the office of the town clerk as a public record.
3. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the DRB (vacancies must be counted). The DRB, in conjunction with any hearing under these Regulations, may:
 - a. examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
 - b. require the attendance of any person having knowledge in the premises;
 - c. take testimony and require proof material for its information;
 - d. require an independent technical review of one or more aspects of an application such as, but not limited to, a traffic study, engineering studies, aesthetic assessment, environmental impact analysis, or fiscal impact analysis, to be paid by the applicant; and
 - e. administer oaths or take acknowledgement in respect of those matters.
4. The DRB shall recognize all persons from the public wishing to be heard at any hearing. The chair may elect to limit public comments to a period of time set aside for public comments and may establish a time limit for any person not deemed an interested person to speak.
5. In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 509.2 of these Regulations are met. The DRB shall keep a record of the name, address, and participation of each of these persons.
6. In accordance with the Act [§§4464(b), 4468], the DRB may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing. No further public notice shall be required.

SECTION 506: DECISIONS

1. The DRB shall issue a written decision within forty-five (45) days after the adjournment of the hearing. Failure to issue a decision within the forty-five (45) day period shall be deemed approval and shall be effective on the forty-sixth (46th) day.
2. 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 recorded evidence. Conclusions of law shall be based on the findings of fact. The decisions shall also include a statement of the time within which appeals (Section 509) may be taken. All decisions shall require the signature of the chair or, in the chair's absence, the vice-chair.
3. In making a decision in favor of the applicant, the DRB may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these Regulations, and the municipal plan currently in effect. Conditions of approval may include:
 - a. the submission of a performance bond, escrow account, or other form or surety acceptable to the Selectboard as provided in Section 507; and/or
 - b. a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
 - c. a requirement for the phasing of development as necessary to avoid or mitigate any undue adverse effects to existing or planned community facilities.
 - d. any other reasonable requirement that the DRB deems necessary to implement the purpose of the Act, these Regulations, and the municipal plan currently in effect.
4. All decisions shall be sent to the applicant or appellant by certified mail within forty-five (45) days after closing the proceeding. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk who shall record the decision as a public record.
5. After the DRB has issued its decision, the Zoning Administrator shall forthwith issue a written decision approving or denying the permit application.

SECTION 507: PERFORMANCE BOND

The applicant may be required, and a permit will not be issued until a performance bond worth up to the value of the cost of the work/improvement is furnished to the Town. The bond shall assure the conditions specified by the DRB and restrictions set forth in these Regulations, such as but not limited to the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project. The DRB may determine the amount of the bond or certified check based upon the recommendations of a professional architect/engineer hired by the Town at the expense of the applicant pursuant to 24 V.S.A. § 4440(d).

SECTION 508: RECORDING REQUIREMENTS

1. Within thirty (30) days after the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of permit violation to the Town Clerk for recording in the municipal land or permit records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.
2. For development within the Flood Hazard and Fluvial Erosion Overlay District, the Zoning Administrator shall also maintain a record of:
 - a. all permits issued for development in areas of special flood hazard;
 - b. elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
 - c. the elevation, in relation to mean sea level, to which buildings have been floodproofed; all floodproofing certifications required under this regulation; and
 - d. all variance actions, including the justification for their issuance.

SECTION 509: APPEALS

1. **Notice of Appeal.** An “interested person” may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the DRB or with the clerk of the municipality if no such secretary has been elected. This notice of appeal must be filed within fifteen (15) days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.
2. **Interested Person.** For the purposes of these Regulations, an “interested person” means any one of the following, in accordance with the Act [§4465(b)]:
 - a. 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 these Regulations, who alleges that the Regulations impose on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
 - b. The Town of Cornwall or any abutting municipality that has a municipal plan or regulation at issue in an appeal brought under these Regulations.
 - c. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any 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 Town Plan or these Regulations.
 - d. Any ten persons who may be any combination of voters or real property owners within the municipality who, by signed petition to the DRB, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the Town Plan or these Regulations. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

- e. Any department and administrative subdivision of the State of Vermont owning property or any interest in property within the Town of Cornwall or an abutting municipality, and the Agency of Commerce and Community Development.

3. **Appeals of decisions or act by the Zoning Administrator.**

- a. Requests for appeals of decision or act by the Zoning Administrator shall be made by interested persons by filing a written notice of appeal with the DRB within fifteen (15) days of the act or decision at issue.
- b. 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.
 - (5) The alleged grounds why such relief is believed proper under the circumstances.
- c. The DRB shall hold a public hearing on a notice of appeal within sixty (60) days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing as described under Section 504, and mail a copy of the hearing notice to the appellant not less than fifteen (15) days prior to the hearing date.
- d. The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within ten (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].
- e. 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 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 that the adjourned hearing will be continued shall be announced at the hearing.
- f. A decision on appeal shall be rendered within forty-five (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 forty-five (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 Zoning Administrator and the Town Clerk as part of the public records of the municipality, in accordance with Section 508. Failure of the DRB to issue a decision within this forty-five (45) day period shall be deemed approval and shall be effective on the forty-sixth (46th) day.

4. **Appeals of decisions by the DRB.**

- a. In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the DRB may appeal a decision rendered by the DRB within thirty (30) days of such decision to the Vermont Environmental Court.
- b. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceedings.

- c. For all proceedings of the DRB that are on record, appeals to the Environmental Court shall be taken on the record in accordance with the Rules of Civil Procedure.
- d. 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.
 - (5) The alleged grounds why such relief is believed proper under the circumstances.
- e. The notice of appeal shall be filed by certified mailing, with fees as required, to the Environmental Court and by mailing a copy to the town clerk who shall supply a list of interested persons (including the applicant if not the appellant), to the appellants within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

SECTION 510: WAIVERS

- 1. **Waivers by the Zoning Administrator.** In all districts, waivers for setbacks may be granted by the Zoning Administrator, without a hearing by the DRB, for:
 - a. Reductions in setbacks as necessary to allow for disability accessibility, fire safety and other legal requirements.
 - b. Additions and improvements on pre-existing non-conforming structures so long as the project does not increase the degree of non-conformity.
- 2. **Waivers by the DRB.** In all districts, the DRB may waive setback requirements **using the conditional use approval process** for roads, driveways, single story attached garages, decks, porches, and/or accessory structures in cases where conditions exist which affect the ability to otherwise meet setback requirements. Before granting a waiver to the setback requirements, the DRB shall make the following written findings or recommendations, including the rationale for each:
 - a. The waiver will be consistent with the purposes of the Town Plan and these Regulations;
 - b. The waiver will not create an undue adverse affect on:
 - (1) natural resources, rural character or aesthetics;
 - (2) public health and safety; and
 - (3) the ability of an abutter to use their property.
 - c. The DRB may consider and require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. Examples of options include a wall, a solid fence, a densely planted hedge or natural and/or man-made landforms.
 - d. All outdoor storage of materials and equipment, including waste storage facilities, shall not be stored or located within the reduced setback area.

- e. The DRB shall provide only the minimum waiver that will represent the least deviation possible from these Regulations.
- 3. **Procedure.** Applicants must provide the Zoning Administrator with a complete permit application and a supplemental letter or plan containing information necessary to make a decision. The nature of any waiver and any conditions attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same manner as all other applicable requirements of these Regulations. Decisions of the Zoning Administrator or DRB regarding the waiver is appealable pursuant to criteria and procedure outlined in Section 510.

SECTION 511: VARIANCES

- 1. **Variance Criteria.** The DRB shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 509. In granting a variance, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these Regulations and the Town Plan currently in effect. The DRB shall grant a variance from the provisions of these Regulations, and render a decision in favor of the appellant, only if all the following facts are found to be true and such findings are specified in its written decision:
 - a. 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of these Regulations in the neighborhood or district in which the property is located;
 - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - c. That such unnecessary hardship has not been created by the applicant;
 - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
 - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of these Regulations and of the Town Plan.
 - f. In the case of development in the Flood Hazard and Fluvial Erosion Overlay, any variance issued in the Special Flood Hazard Area shall comply with 44 CFR Section 60.6 and § 4424 (E), will not increase flood heights, and will inform the applicant in writing over the signature of the AO 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.
- 2. **Renewable Energy Structures.** Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§4469(b)], the DRB may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

- a. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
- b. The hardship was not created by the appellant;
- c. 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, nor be detrimental to the public welfare; and
- d. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

SECTION 512: VIOLATIONS AND ENFORCEMENT

1. **Violations.** The commencement or continuation of any land development that does not meet the requirements of these Regulations shall constitute a violation. Violations shall be regulated as prescribed in 24 V.S.A. § 4451 and § 4452 of the Act, as they may be amended from time to time.
2. **Reporting Violations.** Reports of violations may be filed with the Zoning Administrator who shall investigate all such filings. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such complaint, immediately investigate, and take action as appropriate in accordance with these Regulations.
3. **Fines.** Any person found by the Zoning Administrator to have violated any regulation shall be fined following the procedures and penalties established in the Act. Penalties may include fines up to the amount listed in the statute at the time of the offense (currently up to \$100 per day, per offense, doubled in the event of default), injunctive action or any other remedy the town may lawfully seek under the statute. All fines imposed and collected shall be paid over to the Town of Cornwall.
4. **Notice of Violation.** No violation may be enforced unless the alleged offender has had at least seven (7) business days' notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the violation. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) day period. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the Regulation after the seven (7) day notice period and within the next succeeding twelve (12) months.
5. **Limitations of 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 508 of these Regulations.

ARTICLE 6: ZONING PERMITS AND DEVELOPMENT REVIEW

SECTION 601: APPLICABILITY

1. No land development or change of use may commence in the Town of Cornwall until a zoning permit has been issued by the Zoning Administrator and site plan or conditional use approval, or both, by the DRB has been obtained. It shall be the responsibility of the landowner (or an authorized agent) to obtain the zoning permits required by these Regulations prior to the commencement of any land development. Potential applicants are encouraged to discuss their project with the Zoning Administrator prior to application in order to fully understand the requirements of these Regulations and the permit process.

SECTION 602: EXEMPTIONS

1. No zoning permit or site plan or conditional use approval is required for the following activities:
 - a. Pursuant to 24 V.S.A §4413(b) public utility power generating plants and transmission facilities regulated by the Vermont Public Utilities Commission under 30 V.S.A. §248 are exempt from local permitting requirements. Such facilities, however, shall conform to the screening requirements and recommendations of these Regulations and the policies and objectives specified for such development in the Town Plan.
 - b. Pursuant to 24 V.S.A. § 4413(d) farm structures, excluding dwellings, accepted agricultural practices (AAPs) and accepted management practices (AMPs) for silviculture are exempt from local permitting requirements. However, farmers intending to erect a farm structure must notify the Zoning Administrator in writing of the intent to build a farm structure, and abide by setbacks contained within these Regulations, unless they provide proof of an approval of lesser setbacks by the Secretary of the Agency of Agriculture, Food and Markets. The notification to the Zoning Administrator must contain a sketch of the proposed structure and include the setback distances from abutting property lines, the street right-of-way and surface waters. Additionally, all farm structures within the Flood Hazard and Fluvial Erosion Overlay District must comply with the National Flood Insurance Program. The municipality may report violations of AAPs or AMPs to the appropriate state authorities for enforcement.
 - c. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities or club, respectively.
 - d. Fences, hedges, or walls which are at least 5 feet from all property lines and 7 feet in height or less, and do not interfere with corner visibility.
 - e. Doghouses, sheds, tree houses, greenhouses, and gazebos or similar structures having less than 144 square feet in floor area and less than 10 feet in height, and which are at least 5 feet from all property lines.

- f. Telecommunication dishes or antennae attached to an existing structure for personal use by a single individual or family.
 - g. Any sign erected by the Town or State for directional information or traffic control purposes or exempt per Section 317 of these Regulations.
 - h. Outdoor recreational trails (e.g., walking, hiking, horse trails, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
 - i. Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
 - j. Garage sales, yard sales, auctions or similar events provided that they extend for a period of less than four consecutive days, nor more than ten days in a calendar year, and are managed in a way not to cause traffic or parking problems or create other nuisances for neighbors.
 - k. Temporary roadside stands for the sale of agricultural products provided that:
 - (1) No stand shall be closer to any lot line than twenty feet;
 - (2) Off-street parking spaces shall be provided for at least two motor vehicles;
 - (3) Access to or egress from any stand shall not create a traffic hazard;
 - (4) The stand otherwise meets the definition of an agricultural structure noted above.
 - l. Normal maintenance and repair of an existing structure that does not result in exterior alterations or expansion or a change of use.
 - m. Interior alterations or repairs to a structure that does not result in exterior alterations or expansion or a change in use.
 - n. Infrastructure integral to a permitted building or structure and located primarily underground, such as drainage, wells and water systems.
2. Under the Vermont Municipal and Regional Planning and Development Act (Title 24 V.S.A. Chapter 117), any use not specifically authorized or exempted under these Regulations is prohibited.

SECTION 603: FEES

- 1. Pursuant to § 4440(d) of the Act, the Town of Cornwall Selectboard (the “Selectboard”) shall establish all fees to be charged with respect to the administration of these Regulations, including those portions of these Regulations addressing subdivisions and floodplains, with the intention of covering the costs of administering the same.
- 2. The DRB may require an applicant for approval of any proposed development to bear the costs incurred by the Town for any qualified professional reviews and inspections which are reasonably required by the DRB in connection with such application, or in connection with the ongoing development, including, but not limited to, fees and disbursements charged to the Town for engineering, legal or hydrological services rendered on behalf of the Town in connection with the development.

SECTION 604: ZONING PERMITS

1. **Application Requirements.** Prior to applying for a zoning permit or related development approval, applicants are encouraged to meet with the Zoning Administrator for a preliminary review of the proposal and a discussion of the applicable provisions of these Regulations, permitting requirements, application materials, fees and review procedures.
 - a. The Zoning Administrator shall determine whether proposed land development will require a zoning permit or any other type of development approval and shall provide applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s).
 - b. All forms and applications shall be submitted to the Zoning Administrator and accompanied by the applicable fee. Applications without appropriate fees will be denied. Fees are non-refundable and are for application only and do not guarantee issuance of a permit.
 - c. The zoning permit application shall include the following information:
 - (1) Applicable fee.
 - (2) Completed *Application for Zoning Permit* form provided by the municipality.
 - (3) Sketch plan, drawn to scale, no smaller than 8.5" x 11" and not more than 24" wide x 36", with an arrow depicting north. The drawing shall depict:
 - A. the dimensions of the lot, including existing property boundaries,
 - B. the location, footprint and height of existing and proposed structures or additions,
 - C. the location of existing and proposed accesses (curb cuts), driveways and parking areas,
 - D. the location of existing and proposed easements and rights-of-way,
 - E. existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
 - F. the location of existing and proposed water and wastewater systems, and
 - G. other such information as required by the Zoning Administrator to determine conformance with these regulations.
 - d. The Zoning Administrator shall determine whether the application is complete promptly after the applicant submits it and inform the applicant in writing if additional information is required.
2. **Uses Subject to Development Review by the DRB.** For development requiring one or more approvals from the DRB prior to the issuance of a zoning permit, application for such approvals and required application fees shall be submitted concurrently with the application for a zoning permit for referral to the DRB.
3. **Flood Hazard and Fluvial Erosion Approval.** Any application for development within the Flood Hazard and Fluvial Erosion Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and Section 210.
4. **Issuance.** A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and the following provisions:
 - a. Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the DRB and/or state for consideration. In accordance with the Act [§§4448, 4449], if the

Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day. If the zoning permit is approved, the Zoning Administrator shall issue a permit with appropriate conditions, if any. If the application is denied, the Zoning Administrator shall state such denial and the reasons therefore in writing and shall immediately mail notice of such denial to the applicant at the address indicated on the application.

- b. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the DRB or Selectboard until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
 - c. A zoning permit shall include a statement of the time within which appeals may be taken under Section 509; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
 - d. The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.
5. **Effective Date.** No permit issued pursuant to this section shall take effect until the 15 day time for appeal authorized in 24 V.S.A. § 4465 has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.
6. **Time Limit on Zoning Permits.** All activities authorized by the issuance of a zoning permit shall be completed within two (2) years of its date of issue. If a zoning permit expires before the applicant completes the construction or commences the use authorized by the permit, the applicant shall apply for a new zoning permit and any other associated development approvals under these Regulations.
7. **Notice of Permit.** Each Permit issued under this section shall contain a statement of the period of time within which an appeal may be taken. The Zoning Administrator shall post a *Notice of Permit* on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal (15 days) has passed.
8. **Amending a Permit.** Upon written request from the applicant, the Zoning Administrator may, prior to completion and occupancy, amend a zoning permit or approved site plan.
- a. In order to approve an amendment, the Zoning Administrator must find that the proposed change:
 - (1) Is not a material change. A material change means a change in the planned use or development of land or a structure that may have affected the decision made or any conditions place on the permit if it had been included in the plans as approved.
 - (2) Does not affect the type, character or intensity of the approved development or use to the extent specified below:
 - A. Any proposed change shall not result in an increased requirement for parking or loading spaces.

- B. Any proposed change in building footprint shall not exceed 5% or 100 square feet, whichever is less.
 - C. Any proposed substitution of planting materials shall not change the overall landscape design concept.
 - b. The Zoning Administrator may:
 - (1) Require that the owners of properties abutting the subject property be notified and have an opportunity to comment prior to acting on the amendment request.
 - (2) Decline to amend an approved site plan and refer the request to the DRB.
 - (3) Require the applicant to submit an application for a new zoning permit.
 - c. Once a land development for a permit is complete, a new application is required for any amendments.
9. **Revoking a Zoning Permit.** Any permit issued based on material inaccuracies or misrepresentation in an application, or any supporting documentation to an application, shall be null and void; and any associated development activity commenced under such permit shall constitute a violation of these regulations subject to enforcement.
10. **Certificate of Occupancy.** In accordance with the Act [§4449], a certificate of occupancy issued by the Zoning Administrator shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued.
- a. An application for a certificate of occupancy shall be provided with the zoning permit issued by the Zoning Administrator. The applicant shall submit a completed application to the Zoning Administrator prior to the use or occupancy of the land or structure.
 - b. A certificate of occupancy shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Zoning Administrator determines that the project has been fully completed in conformance with all such approvals and permits.
 - c. Within fourteen (14) days of receipt of the application for a certificate of occupancy, the Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Zoning Administrator fails to either grant or deny the certificate of occupancy within fourteen (14) days of the submission of an application, the certificate shall be deemed issued on the fifteenth (15th) day.
11. **Certificate of Zoning Compliance.** Upon completion of the application for a Certificate of Zoning Compliance and its submission to the Zoning Administrator, along with its fee, the Zoning Administrator shall issue a Certificate of Zoning Compliance. The Certificate simply certifies that the Town is not currently pursuing any enforcement actions against the property.
- a. Nothing within shall relieve the buyer of real estate and their representatives and agents of the responsibility for making a thorough review of the municipal records and independently determining whether there are any encumbrances on the subject property arising out of or relating to acquisition of all necessary and required zoning and other municipal approvals or with the laws of the State of Vermont.
 - b. Nothing within shall preclude or prejudice the Town of Cornwall from taking any and all enforcement actions it deems appropriate against either the seller or buyer of real estate for a

violation of these Regulations, other municipal ordinances, bylaws or regulations, or the laws of the State of Vermont.

SECTION 605: COMBINED REVIEW

1. In accordance with 24 V.S.A. §4462, in cases where a proposed project will require more than one type of development review, the DRB may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion). The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.
2. Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.
3. As applicable, the combined review process shall be conducted in the following order:
 - a. Site Plan
 - b. Requests for Waivers or Variances
 - c. Subdivision Approval (preliminary and final) or PUD approval
 - d. Conditional Use Review
4. All hearing and decision requirements, and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review but shall be coordinated where appropriate.

SECTION 606: SITE PLAN REVIEW

1. **Applicability.** Pursuant to § 4416 of the Act, site plan review by the DRB shall be required for any use or structure, except one-family and two-family dwellings and other land developments exempted by these Regulations. Where appropriate, the DRB shall conduct site plan review simultaneously with all other DRB reviews required for a proposed land development under the combined review process in Section 605.
2. **Application Requirements.** All applications that require a public hearing shall submit nine (9) sets of site plan maps and supporting data to the DRB, by delivering the application to the Zoning Administrator. The application shall include the following information, presented in graphic form and accompanied by written text:
 - a. Property identification numbers of the property taken from the latest tax records;
 - b. Name and address of the owner of record, the applicant if different from the property owner, and the names and addresses of owners of abutting lands, without regard to rights of way;
 - c. Name and address of person or firm preparing the map; Scale of map of at least 1"=200', north arrow, and date prepared.

- d. Features of existing site including lot size(s), property and zoning boundaries, adjacent properties, dimensions, contours, existing structures, large trees, streets, access points to roads, utility easements, rights of way, land use and deed restrictions, significant natural features including but not limited to surface waters, wetlands and associated buffers, woodlands, steep slopes (20% or greater), flood hazard areas, source protection areas, critical habitat areas, historic sites, primary agricultural soils, and unique geologic features such as prominent knolls or cliff outcroppings.
 - e. Proposed improvements including location of structures, building footprints, building envelopes, roads, driveways, parking areas, access points, signs, streets, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, water, landscaping, exterior lighting, screening, site grading and drainage.
 - f. Site clearing and disturbance, and on-site paving, roofing, and other impervious surfaces that increase surface runoff and limit water infiltration and recharge, are minimized. All runoff from impervious surfaces shall be diverted to areas covered with vegetation for surface infiltration.
 - g. The storage and use of chemicals and hazardous materials shall comply with all state and federal regulations and best management practices.
 - h. Elevations of proposed structures; floor plans may also be required.
 - i. Detailed specifications of the planting and landscaping materials to be used.
 - j. Construction sequences and time schedules for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.
 - k. General description of proposed uses including employees, inhabitants, operating hours, impacts of uses, use or storage of hazardous materials, and proposals for mitigating impacts and hazards, as applicable.
 - l. Estimate of daily and peak hour traffic generation.
 - m. A description of energy utilization and conservation measures for each heated structure.
 - n. A description of signs, lighting and steps taken to mitigate against noise created by the proposed use, as applicable.
 - o. For the Special Features Overlay District, any information required under Section 208, unless waived by the DRB.
 - p. Any other information that the DRB may reasonably require to determine project conformance with the provisions of these Regulations, including but not limited to site plans prepared by licensed engineer or surveyor, traffic impact studies, stormwater management plans, erosion control measures, economic impact analyses, or visual assessments.
3. **Public Notice and Review.** Public notice of hearing shall be given as specified in Section 504 of these Regulations if conducted independently or under Section 607 or 608 if conducted as a portion of a conditional use or subdivision review. The Zoning Administrator shall review this application pursuant to the review procedure established in Section 606.4 below of these Regulations and pursuant to any rules of procedure it adopts.
4. **Review Procedure.** Site plan review shall require a public notice and hearing, after submission of a completed application packet. The DRB may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking for vehicles and pedestrians, landscaping

and screening, exterior lighting, signs, hours of operation, design criteria for the exterior of the building proposed and protecting the utilization of renewable energy resources as defined by the criteria below. The DRB shall review the site plan map and supporting data, taking into consideration the following objectives:

- a. Applicant shall demonstrate that the circulation between the site and the street network is adequate to accommodate the traffic proposed. Parking and loading facilities should conform to the standards contained in Section 319 of these Regulations.
- b. Applicant shall demonstrate that they have incorporated landscaping features (trees, shrubs, fences, walls, gardens, open space or other features) into a design to reduce any impacts their use of the property might have on neighboring properties, to ensure a compatible and harmonious relationship, and to promote traffic calming, where applicable.
- c. The outdoor storage of trash shall be screened or hidden from public view.
- d. Applicants should demonstrate that they incorporated reasonable energy conservation measures for commercial structures into the structures proposed.
- e. Applicant shall demonstrate that they comply with all stormwater requirements of the State of Vermont and have adequately addressed drainage on the site so as not to create ponding on or off the site and that they have not rerouted the flow of storm or surface water so as to cause ponding or flooding problems for neighboring properties.
- f. Applicant shall demonstrate that the proposed development will not have an undue adverse effect on significant natural features located on or near the parcel.
- g. Exterior lighting should conform to the standards contained in Section 315 of these Regulations.
- h. Noise should be regulated in accordance with Section 315 of these Regulations.
- i. Signs should conform to the standards contained in Section 317 of these Regulations.
- j. Hours of operation should be limited to standards for similar enterprises and are generally encouraged to not begin earlier than 7:00 a.m. and end by 9:00 p.m. The burden will be on the applicant to demonstrate why longer hours are necessary.

The Zoning Administrator, for applications reviewed only by the Zoning Administrator, or the DRB for all other applications, may waive any information required on the site plan if the information is not relevant to the proposed land development (see Sections 608.5 and 604.1) of these Regulations).

5. **Decisions.** Upon the close of the hearing, the DRB shall issue its decision pursuant to the procedure outlined in Section 506 of these Regulations. In approving a project with conditions, the DRB may require specific modifications to the design, scale, layout and/or design or configuration of the project.

SECTION 607: CONDITIONAL USE REVIEW

1. **Applicability.** Pursuant to § 4414(3) of the Act, the Zoning Administrator shall not issue a zoning permit for any use or structure that requires conditional use approval, or for the expansion or enlargement or change in use of an existing conditional use, until the DRB grants such approval in accordance with these Regulations and the following standards and procedures. Uses requiring conditional use review and approval by the DRB are listed in Article 2 in the sub-sections governing each zoning district. General and specific

standards to which each conditional use must also conform are prescribed in these Regulations (Article 3 and Article 4).

2. **Review Procedure.** Conditional use review shall require a public notice and hearing, after submission of a completed application packet, following the procedures in Sections 504 and 505.. The DRB shall grant conditional use approval if and only if the DRB determines that the proposed use will conform to the general and specific standards outlined in these Regulations. In granting conditional use approval, the DRB may attach reasonable conditions and safeguards as are necessary to implement these Regulations. Where conditional use review is required it shall be in addition to site plan review. When feasible, both procedures shall occur concurrently.
 - a. For all relevant criteria applicable to the requested use, the applicant has the burden of proof. This means that the applicant must persuade the DRB that the use complies with these Regulations. This can be by written or oral testimony provided by the applicant at the hearing. The applicant shall provide sufficient evidence that all relevant criteria have been met even if no party actually opposes that project. Evidence must be credible and clear enough for the DRB to be able make findings that ensure the public health, safety, and welfare.
3. **Existing Conditional Uses.** Uses listed as conditional uses which existed prior to the effective date of these Regulations shall conform to all requirements herein pertaining to conditional uses with respect to a change in use, expansion or contraction of land area, or alteration of structures.
4. **Application Requirements.** In addition to the site plan requirements outlined in Section 606.2, the applicant shall submit nine (9) copies of the *Application to the DRB* form to the Zoning Administrator summarizing the proposed conditional use which addresses all elements of this section, and all other information necessary to illustrate compliance with these Regulations and for the DRB to make its decision.
5. **General Criteria for Review.** When determining the appropriateness of a proposed conditional use, the DRB shall determine that the development or use will not result in an undue adverse effect on any of the following:
 - a. *Capacity of Existing or Planned Community Facilities.* A conditional use shall not place an unreasonable burden upon the ability of the Town or School District to provide services, including but not limited to schools, fire, police, ambulance, road maintenance and recreation.
 - b. *Character of the Area.* A conditional use shall not have an undue adverse effect on the character of the area as defined by the purpose or intent of the zoning district within which the project is located, and the specifically stated policies and standards of the Town Plan. A conditional use must be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district. To that end, the conditional use shall meet or, where it is deemed appropriate by the DRB, exceed the dimensional requirements and specific standards for the district, the sign standards indicated in Section 317, and any other performance standards specified in these Regulations. The estimated traffic generated by a conditional use shall not exhaust or exceed the capacity of the road to accept increased traffic, which could affect the peaceable enjoyment and character of the area, unless the applicant agrees to a condition requiring the applicant to upgrade the road, implement roadside plantings, or other mitigation methods to lessen the impact of increased traffic on neighbors.

- c. Traffic Impacts. The estimated traffic generated by a conditional use shall not, in combination with other uses, exceed the road capacity. A traffic impact study shall be required for any application that is expected to generate 75 or more new trips during the a.m. or p.m. peak hour on Class 1 roads, and 50 or more new trips during the a.m. or p.m. peak hours on Class 2 and 3 roads. The study shall be prepared by a qualified professional in accordance with VTrans' traffic impact study policy. The DRB may also require a traffic impact study prepared by a qualified professional for any other application to determine compliance with this section. Where the capacity of the road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road.
 - d. Compliance with Regulations. A conditional use must comply with regulations and ordinances in effect at the time of submission of the application.
 - e. Renewable Energy Resources. A conditional use shall not excessively inhibit or restrict access to or the use of renewable natural resources (including, but not necessarily limited to, water and sunlight) for energy generation.
6. **Conditions.** The DRB may place conditions on a project in order to ensure that the standards of these Regulations will be met, including, but not limited to:
- a. Limitations on size, scale, or dimensions of the project.
 - b. Increasing distances for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas.
 - c. Limiting outdoor storage of materials, goods, and equipment.
 - d. Requiring that storage of goods, parts, supplies, vehicles or machinery being worked on or finished or partially finished will be inside a building or behind screening.
 - e. Requiring roadway improvements on-site or off-site, if deemed necessary, to accommodate the increased traffic and noise associated with the development. Improvements may also include traffic calming, sidewalks, crosswalks, street trees, and other similar streetscape improvements.
 - f. Conditions with regard to size, design, and location of parking areas, landscaping, and signs.
 - g. Limiting hours of operation.
 - h. Phasing proposed development so that the rate of growth shall not exceed the Town's ability to provide community facilities and services.
 - i. Paying for all or a portion of off-site improvements to community facilities and utilities deemed necessary to accommodate the proposed project.
 - j. Paying for all or a portion of off-site transportation improvements deemed necessary to accommodate anticipated traffic resulting from the proposed project.
 - k. Setting aside land for recreation purposes such as playgrounds, parks, trails, and multi-use paths.
 - l. Setting aside land for conservation purposes and protecting it from future development.
 - m. Other improvements necessary to ensure conformance with these Regulations.
7. **Decision.** The DRB may request additional information that it deems necessary to make an informed decision, including but not limited to, studies at the applicant's expense performed by licensed engineers, hydrologists, geologists, landscape architects, architects, biologists or other qualified professionals or experts. Upon the close of the hearing, the DRB shall issue its decision pursuant to the procedures outlined

in Section 506 of these Regulations and attach any additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of these Regulations and the Town Plan.

SECTION 608: SUBDIVISION REVIEW

1. **Applicability.** Pursuant to § 4418 of the Act, whenever any subdivision of land is proposed to be made, before any contract for sale, lease or transference of such subdivision or any part thereof is made, before any grading, clearing, construction, or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, and before a plat may be filed with the Town Clerk, the applicant, or authorized agent, shall apply in writing to the DRB for and secure approval of the proposed subdivision in accordance with these Regulations.
2. **Types of Subdivisions.** A subdivision is the division of a parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, building development, or sale. Cornwall recognizes three types of subdivisions:
 - a. Boundary Line Adjustments - A boundary line adjustment is where one or more property lines between two or more parcels are modified, but do not create any new lots, do not create non-conforming lots, or do not impact access to any parcel.
 - b. Minor Subdivisions - A subdivision containing not more than three (3) lots which have frontage on an existing public street, and which does not require any new public street, extension of public street or of other municipal facilities.
 - c. Major Subdivisions/PUDs - Any subdivision containing four (4) or more lots is a major subdivision and shall be also be considered under the PUD review process. Also, any subdivision containing two (2) or more lots which do not have frontage on any existing public street or which require any new public street is considered a major subdivision. Projects following within 5 years of other projects by the same property owner or applicant will be deemed Major Subdivisions.
3. **Pre-Application Meeting.** In order to ensure a smooth application process, potential applicants shall contact the Zoning Administrator prior to filing an application for any subdivision review to discuss the application requirements and review process. The purpose of a pre-application meeting is to familiarize the applicant with the requirements of these Regulations and answer basic questions of procedure. No written decision will be issued and no comments by either the applicant or the Zoning Administrator are binding.
 - a. The applicant may present any information that he or she deems appropriate at the pre-application meeting, including site information and/or conceptual subdivision design.
 - b. All applicants for subdivision review are encouraged to contact abutting landowners and other potentially interested persons prior to submitting an application to ensure that legitimate concerns of neighbors are addressed early in the subdivision design process.
4. **Boundary Line Adjustments.** Pursuant to § 4464 (c) of the Act, boundary line adjustments are handled as an administrative procedure by the Zoning Administrator. Upon submission of a completed *Application for Subdivision of Land* form, proper payment of fees, and submission of all required supporting documentation, the following actions will take place:

- a. Procedure. The Zoning Administrator shall conduct a review of the boundary line adjustment submittal and, if finding that the proposal meets all the applicable requirements of these Regulations, shall grant a permit for Boundary Line Adjustment. Prior to granting the permit, the Zoning Administrator may require an accurate map of the property showing existing features, including structure locations, water and wastewater facilities, driveways, easements, parking and loading spaces and pedestrian walks and other information pertinent to the issue.
 - b. Standards. The Zoning Administrator may grant a permit for a Boundary Line Adjustment, if the applicant can satisfy all of the following standards:
 - (1) The adjustment requested meets the definition of a Boundary Line Adjustment;
 - (2) No new lots are created;
 - (3) The lots resulting from the Boundary Line Adjustment meet the dimensional requirements for lots within the underlying zoning district;
 - (4) The adjustment requested is in conformance with the Town Plan and the goals set forth in §4302 of the Act;
 - (5) The adjustment requested is designed to conform to the character of the land use area in which it lies as defined in the Town Plan and these Regulations;
 - (6) The Boundary Line Adjustment does not cause any structure on either lot to violate any dimensional setback requirements in these Regulations; and
 - (7) The applicant demonstrates through a permit or a Deferral of Permit that the Boundary Line Adjustment is acceptable for State water supply and wastewater permitting purposes.
 - c. Decision. The Zoning Administrator shall make a decision on the request for Boundary Line Adjustment by applying the facts presented in the application to the criteria listed above, and incorporating all into a written decision. In approving a project, the Zoning Administrator shall act to ensure, and may impose conditions requiring, that the Boundary Line Adjustment, if permitted, will conform to these Regulations and the Town Plan. The nature of any conditions attached to it shall be entered on the face of the permit and upon the final subdivision plat depicting the adjustment and shall be enforceable in the same manner as all other applicable requirements of these Regulations. The decision of the Zoning Administrator regarding the permit is appealable to the DRB pursuant to criteria and procedure outlined in Section 509 of these Regulations.
 - d. Filing Final Plat. Upon securing a permit decision from the Zoning Administrator, prior to that permit taking effect, the applicant shall be required to file a final subdivision plat pursuant to the recording requirements of Section 508 of these Regulations.
5. **Sketch Plan Review.** For the purpose of preliminary discussion and review, an applicant proposing to subdivide their land shall, prior to submitting a formal application, submit to the Zoning Administrator at least ten (10) days prior to a regular meeting of the DRB nine (9) copies of a sketch plan of the proposed subdivision.
- a. Sketch Plan. A sketch plan shall include the following drawings and information:
 - (1) Name and address of the landowner and/or applicant, names of all adjacent property owners, and name of project.

- (2) A drawing showing the location of the development parcel in the Town and all sites previously developed or subdivided by the applicant/owner in the Town within the past five (5) years. Projects following within 5 years of other projects by the same property owner or applicant will be deemed Major Subdivisions.
 - (3) A drawing at a scale not to exceed one inch = one hundred feet (1" = 100') drawn on a contour map at no greater than 10 foot intervals showing the project boundaries, zoning district boundaries, adjacent land uses and ownership, significant natural and manmade features, existing easements, and layout and size of the proposed lots, uses, and improvements.
 - (4) A written description of proposed development plans, including the total parcel size, the number and size of lots, general timing of construction, and nature and extent of all improvements. The Commission may require additional information before recommending that the applicant proceed with the application.
- b. Review. The DRB shall review the sketch plan to determine whether or not it conforms to or would be in conflict with the Town Plan; these Regulations; official map; developments proposed by any public agency; existing private and public development, facilities and services; and for any special problems that may be encountered.
 - c. Sketch Plan Meeting. The DRB shall, within forty-five (45) days of receipt of the sketch plan by the Zoning Administrator, discuss the sketch plan with the applicant, or his/her duly authorized representative, at a regular meeting of the DRB. The applicant, or his/her duly authorized representative, will be given notice to attend the meeting and should be prepared to discuss the proposal in depth.
 - d. DRB Recommendation. The DRB shall, within forty-five (45) days of the meeting defined in Section 608.5.c above, or any continuation thereof, will classify the project as a Major or Minor Subdivision or PUD and inform the applicant in writing of any specific recommendation for changes in subsequent submissions. The DRB may request additional information to be submitted with the formal application, including special studies and/or supporting documentation as appropriate. The Zoning Administrator may inform the applicant or authorized representative verbally, in lieu of writing, at the sketch plan meeting of specific recommendations and or subsequent submissions. The minutes of the meeting shall indicate the recommendations of the DRB.
 - (1) DRB recommendations under sketch plan review are intended to serve as guidance to the applicant for the subsequent submission of a formal subdivision application. Any determination the DRB makes at sketch plan review does not constitute approval of the proposed subdivision.
 - (2) DRB recommendations remain in effect for six (6) months from the date of issuance, unless otherwise approved or extended in the written determinations issued by the DRB.
 - e. Failure to Appear. If the applicant, or his/her duly authorized representative, fails to appear at the meeting defined in Section 608.5.c, then the DRB may require the applicant to resubmit the sketch plan and the forty-five (45) day notice requirement may be deemed to have been waived by the applicant.
6. **Minor Subdivision**. Within six (6) months after recommendation of the project as a Minor Subdivision by the DRB, the applicant shall submit a complete subdivision application to the Zoning Administrator. The complete application must arrive to the Zoning Administrator at least twenty-five (25) days prior to the regular monthly meeting of the DRB for it to proceed to hearing for approval of a final plan. The Zoning

Administrator will determine if the application is complete. The plan shall conform to the layout presented to the DRB at the sketch plan review, plus any recommendations made by the DRB. If the applicant fails to file a complete subdivision application within six (6) months from the conclusion of the sketch plan phase, the DRB may refuse to act without prejudice and require the applicant to resubmit the application to the DRB for another sketch plan review.

- a. Application Requirements: In addition to the site plan requirements outlined in Section 606.2 of these Regulations, an original and eight copies (9 total) of the following shall be included in the application:
 - (1) A completed *Application for Subdivision of Land* form obtainable from the Town Clerk.
 - (2) The application fee and any initial funds the DRB has determined will need to be escrowed to cover Cornwall's technical review or inspection costs.
 - (3) All information submitted from the sketch plan review.
 - (4) A survey of the boundaries of the subdivision parcel and existing site conditions by a Vermont licensed surveyor.
 - (5) A statement of the compliance of the proposed subdivision with the Town Plan, Zoning Regulations and other bylaws in effect. If the applicant seeks a variance from any provision of the Zoning Regulations, the applicant shall submit a clear statement regarding the variance(s) requested and why the variance is appropriate under Cornwall's Zoning Regulations.
 - (6) Description of proposed water supply. A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If the source is a community water supply system, the applicant shall present evidence of the right to use such system and the adequacy of such a system to meet water supply requirements of the project.
 - (7) Description of proposed sewage disposal system. A report prepared in conformance with state subdivision regulations from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If a community sewage disposal system is to be used, the applicant shall submit evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage.
 - (8) Other criteria may be required at the sole discretion of the DRB where necessary for the protection of public health, safety, and welfare.
 - (9) At the sketch plan meeting, the DRB will make an initial determination concerning which of the application materials it is willing waive.
 - b. Review and Approval. The DRB shall hold a public hearing and act on a final subdivision in accordance with Sections 504 and Section 506 of these Regulations.
7. **Major Subdivision.** Within six (6) months after recommendation of the project as a Major Subdivision by the DRB, the applicant shall submit a complete subdivision application for preliminary plan review to the Zoning Administrator. The complete application must arrive to the Zoning Administrator at least twenty-five (25)

days prior to the regular monthly meeting of the DRB for it to proceed to hearing for approval of a final plan. The Zoning Administrator will determine if the application is complete. The plan shall conform to the layout presented to the DRB at the sketch plan review, plus any recommendations made by the DRB. If the applicant fails to file a complete subdivision application for preliminary plan review within six (6) months from the conclusion of the sketch plan phase, the DRB may refuse to act without prejudice and require the applicant to resubmit the application to the DRB for another sketch plan review.

- a. *Preliminary Plan Application Requirements:* In addition to the site plan requirements outlined in Section 606.2 of these Regulations, an original and eight copies (9 total) of the following shall be included in the application for a preliminary plan of a major subdivision:
- (1) A completed *Application for Subdivision of Land* form obtainable from the Town Clerk.
 - (2) The application fee and any funds the DRB has determined will need to be escrowed to cover Cornwall's technical review or inspection costs.
 - (3) All information submitted from the sketch plan review.
 - (4) A survey of the boundaries of the subdivision parcel and existing site conditions by a Vermont licensed surveyor.
 - (5) A statement of the compliance of the proposed subdivision with the Town Plan, Zoning Regulations and other bylaws in effect. If the applicant seeks a variance from any provision of the Zoning Regulations, the applicant shall submit a clear statement regarding the variance(s) requested and why the variance is appropriate under Cornwall's Zoning Regulations.
 - (6) A statement and maps, if necessary, or other documents demonstrating that the applicant has considered the impact the development may have on Cornwall's waters and has designed the project to comply with the standards contained in Section 208 of these Regulations. Additionally, applicants proposing a subdivision or PUD containing commercial spaces shall describe the type and volume of any waste produced by any commercial entities and how the waste will be disposed of. Additionally, the applicant will describe the steps they have taken to screen the delivery/disposal area from the road and neighboring properties. Applicants are advised to look at Section 606 Site Plan review.
 - (7) Description of proposed water supply. A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If the source is a community water supply system, the applicant shall present evidence of the right to use such system and the adequacy of such a system to meet water supply requirements of the project.
 - (8) Description of proposed sewage disposal system. A report prepared in conformance with state subdivision regulations from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If a community sewage

- disposal system is to be used, the applicant shall submit evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage.
- (9) Description of stormwater systems. A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of stormwater system proposed and stating that the system will be designed to meet the State of Vermont Stormwater Regulations governing both construction and permanent infrastructure and a map depicting the systems. Additionally, the applicant will supply preliminary grading plans showing areas of cut and fill and revised contours, at a contour interval sufficient to demonstrate the scope of the earthwork.
- (10) Description of transportation infrastructure and impact. A report and map from an engineer, or other qualified person, describing and depicting existing and proposed transportation infrastructure including street right-of-way lines, widths of streets, typical road, walkway, and other transportation infrastructure. For larger projects, or as deemed necessary by the Commission, in its sole discretion, applicant may be required to provide evidence that the traffic generated by the project will not cause the capacity of roadways and intersections in the area to be exceeded. Information to be provided should include but not be limited to current traffic volumes, current excess capacities or deficiencies, trip generation estimates and their impact on capacities, and sight stopping distances for new road intersections with Town highways.
- (11) Description of impacts on school and other municipal services. Applicant shall describe the municipal services that the project will impact and provide evidence demonstrating that any impact will be acceptable to the local officials responsible for providing the service.
- A. *Schools*. A letter from the school official responsible for the Cornwall Elementary School showing that school age population projected for the project can be accommodated in the existing facilities in conformance with school capital improvement program and budget.
- B. *Road Access*. A letter from the Road Commissioner regarding the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed subdivision within an appropriate level of service.
- C. *Fire*. A letter from officials of the Cornwall Volunteer Fire Department confirming that the proposed subdivision is designed in such a manner to allow them sufficient access for response vehicles and that they have the ability to provide service to the proposed subdivision.
- D. Applicants unable to provide letters from local officials shall provide any other evidence they or the DRB determines will be appropriate to satisfy the condition, including additional compensation the applicant will provide towards mitigating the impact created.
- (12) Description of Natural Resource impacts. A report describing and a map depicting the natural resources on the property and how the proposed application will impact each of the following:
- A. Describe the general character of the land as it currently exists and how it will exist after the development. Depict significant wetlands, floodplains, streams, brooks, steep slopes, rock outcroppings scenic areas, ridgelines, exceptional trees or other significant natural or

- historic features and describe methods used to preserve those features or otherwise reduce impacts, if any, to them.
- B. Describe and depict the lot layout and configuration, building envelopes, if any, and why the applicant chose to configure the development in the manner depicted.
 - C. Describe the steps the applicant took to limit retain natural cover and limit impacts of construction.
 - D. Describe any landscaping proposed. Depict landscaping plans showing plant types, ground cover, lighting and signage, and existing features and trees to be maintained.
 - E. Describe any agricultural activities currently on or adjacent to the parcel proposed to be subdivided and depict any prime agricultural soils on the property. Describe any steps taken to minimize the impacts on the soils or operations in light of the requirements listed in Section 208 of these Regulations.
 - F. Describe steps the applicant has taken to reduce the visual impact of the proposal in light of the requirements listed in Section 316 of these Regulations.
 - G. Describe and depict any deer wintering areas on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 483 of these Regulations.
 - H. Threatened and endangered species. Describe and depict any threatened or endangered species know to exist on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 208 of these Regulations.
 - I. Describe and depict all land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes and the methods for assuring and maintaining such dedication or reservation.
 - J. Provide any proposed covenants and/or deed restrictions which are intended to cover all or part of the subdivision.
 - K. Describe the homeowners' association or other form or management organization, if such is proposed, and provide copies of the association documents.
- (13) Description of utilities serving the project. A report and map from an engineer, or other qualified person, describing and depicting existing and proposed utilities infrastructure including utility easements, provisions for connections with municipal infrastructure, if any, location of electric telephone and cable infrastructure, and any energy conservation measures incorporated into the design
- (14) A description of the construction activities including hours of operation, hours of trucking, blasting, if any, or any other steps applicant has taken to reasonably reduce construction impacts.
- (15) Establish temporary markers on the site adequate to enable the DRB to locate and appraise the basic layout of the lots and infrastructure in the field. On the map, show an existing street intersection or provide the distance from one corner of the property to the nearest existing street.
- (16) Other criteria may be required at the sole discretion of the DRB where necessary for the protection of public health, safety, and welfare.

- (17) At the sketch plan meeting, the DRB will make an initial determination concerning which of the application materials it is willing waive.
- b. Preliminary Plan Review and Approval. The DRB shall hold a public hearing and act on a preliminary plan in accordance with Section 504 and Section 505 of these Regulations.
- c. Preliminary Plan Conditions. When granting approval of a preliminary plan, the DRB shall state the conditions of such approval, if any, with respect to:
- (1) The specific changes which it will require in the preliminary plan,
 - (2) The character and extent of the required improvements for which waivers may have been requested,
 - (3) The amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the final plan,
 - (4) Any required phasing of the project to insure compliance with Town Plan or conformance with these Regulations or any capital budget adopted by Cornwall at the time of the application.
- d. Preliminary Plan Notification. The action of the DRB and any conditions attached thereto shall be noted on three (3) copies of the preliminary plan. One (1) copy shall be returned to the applicant, one (1) retained by the DRB, and one (1) forwarded to the Selectboard.
- e. Validity of Preliminary Plan Approval. Approval of the preliminary plan shall not constitute approval of the subdivision plan. Prior to approval of the final subdivision plan, the DRB may require additional changes as a result of further study. Subsequent to the approval of the preliminary plan, the applicant shall submit the approved plan to any other local officials having jurisdiction over the project (e.g. Selectboard and Health Officer). Upon receipt of evidence of approval of the preliminary plan by said officials, the applicant may apply to the DRB for final plan approval. The approval of a preliminary plan shall be effective for a period of six (6) months from the date of the written notice of approval.
- f. Final Plan Application Requirements. Within six (6) months after preliminary plan approval by the DRB, the applicant shall submit a complete subdivision application for final plan review to the Zoning Administrator. If the applicant fails to do so, the DRB may require the applicant to resubmit a new plan for preliminary plan approval subject to any new zoning and subdivision regulations, unless the DRB determines that lengthy delays are beyond the applicant's control. The complete application must arrive to the Zoning Administrator at least twenty-five (25) days prior to the regular monthly meeting of the DRB for it to proceed to hearing. The date of such meeting following receipt of the required materials shall be the official submission date of the application for approval of a final plan. The final application shall conform to the layout of the preliminary plan, plus any conditions required by the DRB. The Zoning Administrator will determine if the application is complete before passing it on to the DRB. The final application for a major subdivision shall consist of nine (9) copies of a surveyed plan and project description including the following information:
- (1) All information required for the preliminary submittal shall be submitted in final form, including any revision or additional detail requested by the DRB.
 - (2) In the event of granting of easements to the Town of Cornwall, a written acknowledgment of the applicant's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.

- (3) Written evidence of approval by all local officials having jurisdiction over the project, and written evidence application for or approval of all State and Federal agency permits. Should the applicant move forward with only applications for State or Federal agency permits, and fail to secure such permits prior to final plan approval, the DRB may issue approval subject to the condition that the applicant must secure State or Federal agency permits substantially similar to those presented to the DRB prior to recording the final subdivision plat.
- g. Final Plan Review and Approval. The DRB shall hold a public hearing and act on a final subdivision in accordance with Section 504 and Section 506 of these Regulations.
- h. Final Plan Conditions. When granting approval of a Final Plan, the DRB shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the Final Plat,
 - (2) The character and extent of the required improvements for which waivers may have been granted,
 - (3) The responsibility of required improvements shall be identified, as applicable,
 - (4) The improvement or the amount of all bonds that the Commission will require to secure work on public infrastructure as prerequisite to the approval of the Final Plat,
 - (5) Any required phasing of the project to insure compliance with Town Plan, or conformance with these Regulations or any capital budget adopted by Cornwall at the time of the application,
 - (6) Any conditions requiring the applicant to secure final State or Federal permits, should the Commission grant final approval of the plat prior to applicant's securing of all required final State and or Federal permits.
- 8. **Public Acceptance of Streets, Recreation Areas.** Approval by the DRB of a subdivision plan shall not be deemed to constitute acceptance by the municipality of any street, easement, utilities, park, recreational area, or other open space shown on such final subdivision plan. As noted in Section 607.9 below, the DRB may require the filing of a written agreement between the applicant and the Selectboard covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.
- 9. **Improvements and Performance Bond.** If the DRB deems it necessary to require a performance bond on any improvements benefiting the municipality, before the DRB grants approval of the final subdivision plan, the applicant shall follow the following procedures: In an amount set by the DRB the applicant shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the applicant shall file with the Town Clerk a performance bond to cover the full cost of required improvements. Any such bond shall be satisfactory to the Selectboard and municipal attorney as to form, sufficiency, manner of execution and surety. The DRB shall fix the term of the bond up to three (3) years. The certified check or bond shall include an amount required for recreation land or improvements as specified in Section 608.11 (d), if applicable. An inspection fee to be paid by the applicant to cover the costs of inspection shall be established by the Selectboard as part of the application fee.
- 10. **Filing of Approved Final Subdivision Plat.**
 - a. Plat Recording. All final subdivision plats must be recorded in the office of the Town Clerk within one hundred and eighty (180) days of the date of final plan approval or the approval expires. The Zoning

Administrator may extend the date for recording by an additional ninety (90) days, if final local or state permits or approvals are still pending. The approved final subdivision plat shall be filed with the Town Clerk. The plat to be recorded shall meet all requirements required for the recording of a survey plat pursuant to 27 V.S.A. § 1403. Prior to recording, the final subdivision plat must be signed by two (2) authorized members of the DRB. Final subdivision plats for Boundary Line Adjustments shall be signed by the Zoning Administrator. For any subdivision which requires the construction of streets or other public improvements by the applicant, the authorized members of the DRB may not sign the approved plat until the applicant has:

- (1) Demonstrated that the proposed public improvements have been accepted by the Selectboard and any other municipal official having jurisdiction over such improvements,
- (2) Met the requirements of Section 607.9 of these Regulations regarding performance bonds, if any, or
- (3) Constructed all public improvements to the satisfaction of the DRB.

- b. Plat Void if Revised After Approval. No changes, modifications, or revisions shall be made in any final subdivision plat after the DRB has issued its approval and executed the plat, unless the plat is first resubmitted to the DRB and the DRB approves any modifications.

11. **Subdivision Design Standards.** In addition to the general and specific standards outlined in these Regulations, the specific standards outlined in each district, and the standards detailed in conditional use review, the DRB will evaluate Major and Minor Subdivision applications pursuant to all criteria listed below that are relevant to the proposal:

- a. Planning standards.

- (1) Character of the land. All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment. Significant wetlands, land subject to periodic flooding or poor drainage, steep slopes over 20 percent grades or land with inadequate capability to accommodate structures, septic systems, roads, utilities, or other forms of development, or land with other hazardous conditions shall not ordinarily contain infrastructure necessary to support a subdivision.
- (2) Energy conservation. In order to conserve energy all subdivisions shall use the least areas of roadway and the least length of sewer, water and utility lines within environmental and economically sound limits. Buildings should be sited so as to take advantage of southeast, south and southwest orientations where practical. Landscaping should be effectively used providing wind barriers and reducing heat loss and heat gain. Cluster development is encouraged.
- (3) Reserved strips. No privately owned reserved strip, except on open space areas, shall be permitted which controls access to any part of the subdivision or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.
- (4) Lot layout. The layout of lots shall conform to the principles of the Town Plan and to the requirements of these Regulations. Lot layout shall be appropriate for the intended purpose and shall support the existing pattern of the district. Corner lots should have extra width to permit a setback on each street. Side lot lines shall generally be at right angles to straight streets or radial

to curved street lines. Considerations in lot layout shall be given to topographic and soil conditions.

- (5) Preservation of existing features. Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, and historic resources.
- (6) Compatibility with Town Plan and compliance with existing ordinances: The proposed development shall be compatible with the uses proposed for each area in the Town Plan and shall provide sufficient open space for the recreation, visual and aural privacy, and other domestic needs of the area's inhabitants. The proposed subdivision may be denied if the intended use cannot be shown to be capable of complying with the provisions of applicable regulations and ordinances.

b. Roads.

- (1) Layout. The arrangements of roads in the subdivision shall provide for the continuation of principal roads in any abutting subdivision or for their proper projection when abutting property is not subdivided in order to create a logical system. When an Official Map which includes planned future roads has been adopted by the town, subdivisions may be required by the DRB to conform to that map. Roads may be dedicated or served in the locations and widths shown on the Official Map as a condition of plat approval.
- (2) Topography. Roads shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such roads.
- (3) Access. Year-round graveled or paved access shall be available for fire, ambulance and police vehicles to within 100 feet of the principal entrances to dwellings, commercial or industrial establishments, and institutions.
- (4) For gravel or paved access routes that are longer than 150 feet in drivable length from a public or private road, a turn around space is required.
- (5) Roads and Driveways. Roads to be taken over by the Town and driveways associated with a proposed subdivision shall comply with the requirements of the Town of Cornwall Highway and Traffic Ordinance adopted by the Selectmen, August 15, 2000 and amended June 18, 2002.
- (6) New Road Design Standards. New roads, not offered to the Town, but serving the public shall be designed to comply with appropriate standards for the size and location of the subdivision as contained in the Vermont State Standards for the Design of Transportation Construction and Rehabilitation on Freeways Roads and Streets dated July 1, 2007, as amended.
- (7) Traffic Capacity. Subdivision projects judged by the DRB to generate traffic that exceeds the existing capacity of adjacent public roads or intersections shall be denied, or phased in a manner which allows the improvement of said capacity to better accommodate the project.
- (8) Road Upgrades. If the proposed access road or driveway intersects a Class 4 Town Highway, the DRB may deny the application. Alternatively, and contingent upon the approval of the Selectboard, the DRB may require the applicant to improve the intersected road to Class 3 Town Highway construction standards. The DRB may also impose conditions on the approval of a

subdivision which require the improvement of private roads or drives on the subdivided parcel which, in the judgment of the DRB, are inadequate to handle the increased traffic which may be expected.

- (9) Road names. Roads shall be identified by name on the preliminary plat. Proposed roads which are obviously in alignment with others already existing and named shall bear the E-911 names of existing roads. In no case shall the names for proposed roads duplicate existing names, irrespective of the suffix, be it road, street, avenue, boulevard, driveway, place, or court.
- (10) Curbs and sidewalks. Curbs and sidewalks may be required on at least one side of all streets by the DRB in any subdivision where the density is greater than one residential unit for each two acres unless waived by the DRB, and the curbs and sidewalks may be required on both sides of a street, if deemed necessary by the DRB. Curbs may be required when the density is one residential unit for each two acres of land or less, if deemed necessary by the DRB. If sidewalks or curbs are required by the DRB, construction must conform to specifications provided and approved by the Road Commissioner.

c. Pedestrian/bicycle access.

- (1) Proposed subdivisions shall contain adequate provisions for pedestrian traffic in terms of safety, convenience and access to appropriate destinations.
- (2) Where necessary, in the judgment of the DRB, rights-of-way for pedestrian/bicycle travel and access may be required to facilitate pedestrian circulation within the subdivision and to provide access to public property.

d. Open space and recreation areas.

- (1) Resident use. The DRB may require as one of the criteria for approval that each subdivision contain adequate provision for the recreation needs of its residents. In some subdivisions the reservation of open space for common use may be considered by the DRB as adequate fulfillment of this obligation; in other subdivisions the installation of recreation facilities may also be required.
- (2) Dedicated land. Land dedicated to open space shall be in a location or locations, and of a size and shape approved by the DRB (for park, recreation, open space, agriculture, forestry, wildlife habitat, natural areas, aquifer protection areas, water body bank, or municipal purposes). Provisions for open space land shall include but shall not be limited to the following objectives:
 - A. The open space land shall provide for the protection of resources on the site including agricultural land, woodland, wildlife habitat, natural areas, aquifer protection areas, views, vistas, stream banks and historic sites.
 - B. The location, shape, size and character of the open space land shall be suitable for its intended use and shall be located so as to conform with and extend existing and potential common open space lands on adjacent parcels.
 - C. Open space land will be suitably improved and/or maintained for its intended use, except that open space containing natural resources worthy of preservation may be required to be left unimproved. Provisions will be made to enable lands designated for agriculture and forestry

to be utilized for these purposes. Management plans for forestry and wildlife habitat may be required.

- D. The DRB, as a condition of approval, may establish such conditions as it deems necessary to the ownership, use and maintenance of land set aside as open space, to assure the preservation of such lands for their intended purposes.
 - E. The DRB may require that the Town be a party to any legal mechanisms for the protection of open space.
 - F. Road rights-of-way and parking spaces shall not be included in the determination of the open space requirements of this Section.
- (3) Public use. Where a proposed development is designed for more than 10 dwelling units, or where the proposed development plus prior developments by the same developer approved after the effective date of regulation total more than 50 dwelling units, an obligation to contribute to the Town toward the cost or development of a public recreational facility or park shall apply, unless waived in writing by the Selectboard. Prior developments by the same developer include units constructed by family members or corporations owned or controlled by the developer or family members. If the obligation is settled by cash payment, its use by the Town is limited to recreation purposes, current or future, but is not limited to land acquisition. This cash contribution shall be set aside in a special account and shall only be used for recreation purposes.
 - (4) Recreational area. The Town encourages, but will not require, that open space be used for recreation. Where a proposed park, playground, or other recreation area is shown on the Official Map adopted by the Town of Cornwall pursuant to 24 V.S.A. § 4421 at the time of application to be located in whole or in part in a proposed subdivision, the DRB shall require that such area or areas be shown on said Plat. However, the area indicated on the Plat shall not exceed fifteen (15) percent of the total area of the Plat. Should applicant desire to proceed without the proposed public facility, the DRB should continue its review of the property subject to subsection 5 of 24 V.S.A. § 4421.
 - (5) If the DRB determines that there is no proposed park, playground, trail or other recreation area in the Official Map located in a proposed subdivision, or if the DRB determines that such a proposed recreation area of adequate size cannot be suitably located in the proposed subdivision, and the Town of Cornwall has adopted impact fees for recreational uses, the DRB shall require, as a condition to the approval of the Plat, a payment to the municipality of an amount to be determined by the Selectboard. The payment shall be used by the municipality to serve the area in which the subdivision is located. Fees paid pursuant to this section shall be deposited in a special fund to be used for acquisition and development and maintenance of park and recreational facilities.
- e. Site preservation and improvements.
- (1) Natural cover. Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil. After application for approval has been made to the DRB, no topsoil, sand or gravel shall be removed from the

subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these Regulations.

- (2) Shade trees. The Commission may require that suitable hardwood shade trees (such as sugar maples, Norway maple, red maple, ash or oak), be planted along streets where trees do not exist. All trees shall measure at least 10 feet in height and at least two inches in diameter measured at a point six inches above finished grade level. All trees are to be planted within five to eight (5-8) feet from the street line at intervals to be specified by the DRB.
- (3) Erosion and sediment control. Applicant shall demonstrate that the subdivision has been designed and phased to control stormwater and erosion control both during and after construction. The smallest practical area of land should be exposed at any one time during development. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the DRB to protect areas exposed during development. Sediment basins shall be installed and maintained on site to remove sediment from land undergoing development and from runoff water.
- (4) Excavation and grading. The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of four inches of topsoil shall be provided to cover all finished slopes. Materials for embankment shall be placed in successive horizontal layers not exceeding six inches in depth. They shall be thoroughly compacted. The DRB shall require embankments to be planted with stabilizing shrub or ground cover and seeded with a deep-root grass to prevent erosion.
- (5) Drainage improvements. An adequate surface stormwater drainage system for the entire subdivision shall be provided. The subdivider may be required by the DRB to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Where it is anticipated that additional runoff incidental to the development of the subdivision will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the DRB shall not approve the subdivision until provision has been made for the improvement of said condition. Where a subdivision is traversed by a watercourse or drainageway, there shall be provided a stormwater drainage easement of such width as to encompass the twenty-five (25) year flood area of such watercourse, which easement shall be indicated on the final plat.

f. Utilities.

- (1) Utility easements. Underground utilities should be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements twenty (20) feet in width shall be provided with satisfactory access to the street.
- (2) Creation of municipal utilities. All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvements. The DRB may require that a community water supply or wastewater system unconnected to municipal systems

be designed in such a way that it may eventually be connected to a public municipal supply system.

- (3) Electric, telephone, cable. The applicant shall coordinate the subdivision's design with the utility companies and submit a plan prepared with their cooperation showing all line extensions necessary to serve the subdivision. Such plan shall be integrated with a systematic program for distribution of service to the entire area around the subdivision now or in the future. Common rights-of-way should be utilized whenever possible and, when technology and terrain make it economically feasible, distribution systems shall be built underground.
- (4) Solid waste. Subdivisions for commercial or industrial users shall demonstrate that adequate facilities for the storage and removal of solid waste exist on the property and that said facilities are located in a service area screened from view of the roadway and any residential structures adjacent to the subdivision. Applicant shall also demonstrate that the solid waste stream is properly disposed of upon leaving the property.
- (5) Water. Applicant shall demonstrate that an adequate supply of water exists for the subdivision and that said supply will not interfere with existing water supplies by procuring a State Water Supply Permit or, if appropriate, a Deferral of Permit for each lot created.
- (6) Wastewater. Applicant shall demonstrate that the subdivision has been designed to reasonably dispose of wastewater by procuring a State Wastewater Disposal Permit or, if appropriate, a Deferral of Permit for each lot created.

g. School and Municipal Services and Facilities.

- (1) Road letter. A letter from the road foreman regarding the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed subdivision within an appropriate level of service. If new roads or upgrades are required, please also see Sections 319 of these Regulations regarding standards for road improvements. Where road upgrades to Town roads will be required, applicant will need to secure the approval of the Cornwall Selectboard in addition to a letter approving the proposed upgrades from the road foreman.
- (2) Fire letter. A letter from officials of the Cornwall Volunteer Fire Department confirming that the proposed subdivision is designed in such a manner to allow them sufficient access for response vehicles and that they have the ability to provide service to the proposed subdivision.
- (3) School letter. A letter from an official at the Cornwall Elementary School that the development proposed will not unduly impact the school by causing the population to exceed the capacity of the existing facility. Where a Major Subdivision will cause the population of the school to exceed the capacity of the existing facility, the DRB may require the designation of necessary public school sites or a payment in lieu thereof. Prior to imposing a condition of school site dedication, the DRB shall contact the Cornwall School Board. If the DRB declares an interest in a site within the proposed subdivision, the DRB shall require the Applicant to set aside the site and to show such area on the Plat. If the DRB determines that there is no interest in a school site or that a school site cannot be suitably located within the proposed subdivision, the DRB may require as a condition to the approval of such plat payment to the municipality of an amount to be

determined by the Selectboard. The payment shall be used by the municipality for the acquisition and development of school sites or capital improvements to school structures.

- h. Subdivision organizations and restrictions. When a development involves common ownership of community facilities, open spaces, or other commonly held property, a management organization to operate and maintain these facilities shall be required by the DRB. A prospectus shall be submitted by the subdivider describing this organization, its financing and membership, which must meet the approval of the DRB.

SECTION 609: PLANNED UNIT DEVELOPMENT

1. **Establishment.** Pursuant to § 4417 of the Act, Planned Unit Development (PUD) shall be established to provide relief from the strict dimensional standards for individual lots in these Regulations in order to encourage innovation in design and layout, efficient use of land, the viability of infill development and redevelopment in the Town and to preserve important natural and cultural resources.
2. **Purpose.** The purpose of the Planned Unit Development (PUD) provisions is to:
 - a. Encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land as defined in the Town Plan and these regulations;
 - b. To facilitate the adequate and economic provision of streets, services and utilities;
 - c. To preserve the natural and scenic qualities of open land in the community and protect the water;
 - d. To provide a mixture and variety of housing types at different densities;
 - e. To allow the development of existing lots which because of physical, topographic, or geological conditions could not otherwise be developed;
 - f. To aid and encourage development that promotes affordability in housing; and,
 - g. To encourage and achieve energy-efficient development and redevelopment.
3. **Applicability.** All major subdivisions comprised of four (4) or more lots shall require approval in accordance with the PUD provisions of these Regulations. PUD provisions may also be applied to any parcel to be subdivided at the request of the applicant, but shall be a minimum of two residential or non-residential structures, not including accessory structures. If a PUD requires site plan or conditional use approval, the Development Review Board shall conduct that review concurrently with subdivision review.
4. **Application Procedure.** In addition to the information required for site plan and/or subdivision review, applications for PUD must include the following:
 - a. A statement setting forth the nature of all proposed modifications, changes, or supplementations to existing zoning regulations and the standards and criteria which the applicant proposes for the development, including the location, height, spacing of buildings, open spaces and their landscaping and long-term stewardship, streets, driveways, off-street parking spaces, and all other physical features.
 - b. A brief summary of the project and how it meets the standards of this section as well as all other applicable regulations including specific PUD standards established for the zoning district where the development shall occur.
 - c. A description of any deed covenants, homeowner's association articles and bylaws, and maintenance or management plans.

- d. In instances in which an applicant proposes development of a portion of a larger parcel, or development of a parcel contiguous to another parcel(s) in common or affiliated ownership, a general indication of the intended use of the remaining (undeveloped) portion of the land.
 - e. Any additional information required by the DRB to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards of these regulations.
5. **Dimensional Requirements.** The DRB may modify the dimensional requirements of the district in which the project is located, except that the minimum setbacks required for the district shall apply to the periphery of the project.
6. **Density.** Generally, the overall density of a PUD will not exceed the number of dwelling units that could be permitted if the land were subdivided into lots in accordance with the district regulations. However, the DRB may approve density bonuses increasing the overall density of a project provided the DRB determines that the project meets the purpose of PUDs set forth in Section 608.2 above.
7. **Density Bonus.** The DRB may approve a density bonus for a senior living facility, housing for people with disabilities, or affordable housing units that are designed in accordance with all applicable standards. Calculation of the allowed density increase shall be based on the maximum allowable overall density of the project as defined by the district in which the project is located. Accessory dwellings shall not be counted when calculating the total number of units. All units shall be protected in perpetuity through deed restrictions, covenants, or other accepted legal mechanisms.
- a. A density bonus of up to twenty-five percent (25%) shall be granted for PUDs with any number of applicable units.
 - b. A density bonus of up to fifty percent (50%) shall be granted for PUDs with all applicable units.
8. **PUDs in Two or More Districts.** In the event that a parcel involved in a single PUD is located in two or more zoning districts, the total allowable density shall be calculated based on the dimensional standards for each district established in Article 2, and the total acreage of each portion of the parcel located with the respective district.
9. **General Standards for Review.** In addition to the general and specific standards outlined in these Regulations, the specific standards outlined in each district, and the standards detailed in Conditional Use Review, applications for subdivision review shall also meet the following design standards in order for the DRB to approve the application:
- a. The PUD is consistent with the Cornwall Town Plan.
 - b. The uses proposed for PUD should be of varied types, including one-family, two-family, or multiple-family construction or commercial uses appropriate for the district in which the proposed project lies.
 - c. The PUD is an effective and unified treatment of the development possibilities of the project site, and the development plan makes appropriate provision for preservation of water, streams and stream banks, steep slopes, Class II wetlands, and unique natural and man-made features.
 - d. Buildings, building envelopes, roadways, sewage disposal sites, and sewer and water lines will be located to minimize impacts on significant natural resources designated in the Town Plan and those protected under State law.
 - e. The PUD fits with and reinforces the character of the neighborhood.

- f. The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.
 - g. Where possible, buildings shall be sited so as to take advantage of southeast, south, or southwest orientations.
 - h. Energy efficiency shall be encouraged in the design and construction of a PUD, including minimizing building shadows that preclude the proposed use of solar energy collectors.
 - i. Any modification of these Regulations approved under this section shall be specifically set forth in terms of standards and criteria for the design, bulk, and spacing of buildings and the sizes of lots and open spaces which shall be noted on or appended to the application.
10. **Specific Standards for Review.** The following specific standards shall be met in order for the DRB to approve the application:
- a. Building Height and Spacing. District regulations on height and spacing between main buildings shall be met unless otherwise waived by the DRB.
 - b. Clustering. Structures shall be clustered when feasible and shall be sited to the best advantage allowed by the property. This may include siting towards an edge of the property, near an adjacent neighborhood, or along treelines or hedgerows. Clustering should, to the extent practical, occur on the portion of the parcel nearest to existing neighborhoods and settled areas, however, no clustering or site location shall have the effect, by determination of the DRB, of causing an undue adverse effect on abutting neighborhoods, uses, or natural areas.
 - c. Utility Siting. The Board may establish the location of the placement of the utilities in relation to the road. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements at least twenty (20) feet in width shall be provided with satisfactory access to the street.
 - d. Road Configuration. Roads shall be designed to establish an interconnected network of streets of a scale designed to slow traffic and ensure pedestrian and vehicular safety. The use of traffic calming devices, including on-street parking and street trees, is strongly encouraged. Lots, buildings and streets shall be configured to create a compact, pedestrian scale neighborhood with well-defined streetscapes characterized by consistent building setbacks, sidewalks and street trees.
 - e. Access. Roads or driveway shall be designed with a minimum of two connections to public (State or Town) roads or, where two connections is not practical, a right-of-way shall be created to provide future connection to one or more adjacent parcels. Such right-of-way shall be located to provide the best practical opportunity for extending the street network and integrating future development within the PUD.
 - f. Street/Pedestrian Network. The PUD will promote and contribute to a logical street and pedestrian network. Such a network should be designed to include logical connections with existing or planned roads and/or recreational or walking trails.
 - g. Pedestrian Circulation. Provision shall be made for year-round pedestrian circulation within the site and for pedestrian access to adjacent properties. Pedestrian circulation should include a network of pathways and sidewalks connecting existing land uses in and adjacent to the project, and as needed, to provide direct pedestrian access from adjacent sidewalks and parking areas to building entrances.
 - h. Lot Layout. Lot layout shall reinforce the existing pattern of buildings described in the Town Plan.

- (1) In the Village District, they should continue and add to the village character, lining public streets, ways and spaces, and shall enable building sites and setbacks to be consistent with current village patterns.
 - (2) In the Rural Neighborhood or Residential/Agricultural Districts they should be clustered to blend new development into the historic, agricultural landscape and maintain important natural, scenic and cultural resources as open space.
- i. Mix of Building Styles. In any PUD with four (4) or more single-family or two-family dwellings, buildings should reflect a diversity of floor plans, garage orientation, building facades, color and rooflines to better integrate the development into the surrounding area and avoid a homogeneous or monolithic appearance.
 - j. Front Yards. Use of the area between structures and the street line shall be limited to landscaping, pedestrian paths and associated pedestrian amenities (e.g., street furniture, pedestrian scale lighting and signs) and driveways.
 - k. Common Land. A PUD shall incorporate one or more areas of common land, such as a green, park, playground, or other recreational space, into the overall project design.
 - l. Open Space. A PUD shall make adequate provision for the protection of open space and common land. In determining the appropriateness of the open space and common land, the applicant and the Board shall consider the goals and recommendations of the Town Plan, in addition to, the location, shape, size, and character of the designated open space and common land relative to the size, density, topography, and the number and type of units proposed in the PUD. Designated open space should encompass lands characterized by fragile or significant natural features, wildlife habitat, slopes in excess of twenty percent (20%), buffers, path and trail corridors, access corridors, views and vistas, and productive farm land.
 - m. Village Open Space. Within the Village (V) District, open space or common areas should serve as a central organizing feature within the PUD or should be designed to maintain a contrasting edge between the village and surrounding countryside by protecting agricultural land adjacent to the district boundaries. The DRB shall consider how the open spaces contribute to and connect with Village as a whole, and may require that the applicant develop open space plans that contribute to a connected and cohesive village setting.
 - n. Open Space Conditions. The DRB, as a condition of its approval, may establish such conditions as to the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. Restrictions on common spaces to implement or protect intended purposes may include:
 - (1) Protection of Resources. Additional measures may be imposed to protect resources identified on the parcel, such as restrictions on building sites through designation of building envelopes and clearing limits, and setbacks from specific resources;
 - (2) Shape and Size of Open Space. The location, shape, size and character of the open space land is suitable for its intended use.
 - (3) Relation to Abutting Open Space. Open space land shall be located so as to conform with and extend existing and potential common open space land on adjacent parcels.

- (4) Town as a Party for Protection. The DRB may require that the Town be a party to any legal mechanisms for the protection of open space.
- (5) Community Agreements. When a development involves common ownership of community facilities, open spaces, or other commonly held property, a management organization to operate and maintain these facilities may be required by the DRB. A prospectus shall be submitted by the developer describing this organization, its financing and membership, which must meet the requirements of the DRB. Approval will be contingent on the DRB's receipt and acceptance of final drafts of documents to be executed that will form such organization.
- (6) Open/Conserved Space Management Plan. In addition to demonstrating that an organization exists to operate and maintain common areas or areas set aside for open space, recreation or the preservation of natural resources, the DRB may require that the applicant provide a management plan describing how the resources preserved will be maintained.
- (7) Costs. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners and/or third parties approved by the DRB.
- (8) Designated open space shall be indicated with appropriate notation on the final plat.

ARTICLE 7. DEFINITIONS

SECTION 701: DEFINITIONS

Certain means of references and words used herein shall be defined as listed below. Unless the content clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular.

The word "person" includes a corporation, unincorporated association and a partnership, as well as an individual. The word "building" includes structures and shall be construed as if followed by the phrase "or part thereof." The word "may" is permissive; the words "shall" and "will" are mandatory.

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

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Development Review Board, or the Town Attorney, as appropriate.

ABBATOIR: See Commercial Slaughterhouse.

ABUTTER: Owners of property abutting the property subject to development, without regard to any public right-of-way.

ACT: Chapter 117 of Title 24 of the Vermont Statutes Annotated

ACCESS PERMIT: See Section 319

ACCESSORY APARTMENT: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a one-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The owner occupies either the primary dwelling or accessory dwelling.
- The property has sufficient wastewater capacity.
- The unit does not exceed the greater of 30 percent of the total habitable floor area of the one-family dwelling or 1,000 sq. ft.
- Applicable setback and coverage requirements specified in the bylaws are met. 24 V.S.A. § 4412(1)(E).

ACCESSORY USE: A use customarily incidental and subordinate to the principal use or building and located on the same lot.

ACCESSORY STRUCTURE: A structure which is: 1) detached 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.

ADMINISTRATOR: The Federal Emergency Management Administrator

AGRICULTURAL PRACTICES: These Regulations shall not regulate Accepted Agricultural Practices (AAPs) as those practices are defined by the Secretary of the Agency of Agriculture Food and Markets.

AGRICULTURAL USE: Land or structure used for raising livestock; growing agricultural or forest products; storing equipment; temporary housing for seasonal labor (not to exceed four months); or, as an accessory use, selling agricultural products of which more than 51% are raised on the property.

ALTERATION: Structural change, rearrangement, change of location, or addition to a building.

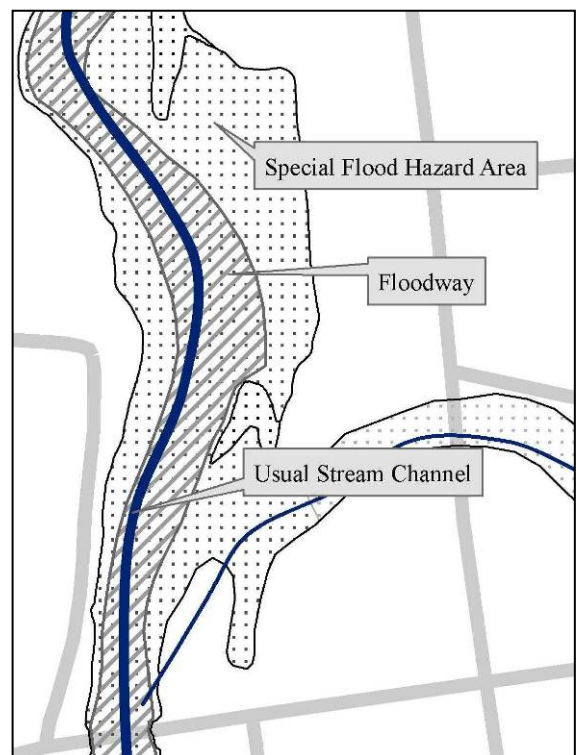
APPLICANT: Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself and/or for others.

AREA OF SPECIAL FLOOD HAZARD: Synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

AUTHORIZED AGENT OR REPRESENTATIVE: A person or group of persons, who have been duly authorized in writing filed with the Commission by the applicant to act in his or her behalf.

BASEMENT: Story partly underground. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than six feet.

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.

BED & BREAKFAST: Building wherein bedrooms are let for shelter on a temporary basis for profit.

BOARD: See DRB

BOUNDARY LINE ADJUSTMENT: Any revision to a plat record or deed legally filed in the Town's land records which creates no new building lot(s) and which has no impact on roads, rights-of-way or other public facilities; (i.e. a case in which the owners of two abutting properties wish to move a common boundary, without the intent to create an additional lot). A boundary adjustment shall be treated as an administrative change.

BUILDING: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or personal property. Includes any carport, porch, terrace, deck, or steps covered overhead.

BUILDING AREA: Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory structures. Any solar collection device or related apparatus not included as floor area of a building is not included. All dimensions shall be measured between exterior faces of walls.

BUILDING ENVELOPES: A building envelope constitutes a specific area of land designated within a subdivided lot of land on which all of the infrastructure, except the driveway or utilities serving the lot, shall be located. Building envelopes constitute a useful tool for maintaining open space and limiting the scope of impact of a project. The Planning Commission may require any subdivision to create building envelopes on any subdivision.

BUILDING FRONT LINE: Line parallel to the street line transecting that point of the building which is closest to the street line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street line" in this definition.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

BUILDING REAR LINE: Line parallel to the street line transecting that point of the building which is farthest from the street line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street line" in this definition.

BUILDING SIDE LINE: Line parallel to the nearest side lot line transecting that point of the building which is nearest the side lot line.

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.

BY RIGHT USE: A use which is permitted by obtaining a permit from the Zoning Administrator.

CAMPER: Any motorized or unmotorized vehicle mounted on wheels and used as sleeping, camping, or living quarters. This includes a camper body mounted on a truck, and excludes mobile homes.

CAMPGROUND: Any tract or parcel of land occupied, for no more than a four-month continuous period of time, by four or more campers, tents, or tent sites for vacation or recreational purposes.

CHANNEL: An area that contains continuously or periodic flowing water that is confined by banks and a streambed.

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.

CHILD CARE FACILITY: Any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of 12 or more children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including a kindergarten approved by the state board of education. 33 V.S.A. § 4902(2). See Section 406.

CHURCH OR PLACE OF WORSHIP: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory structures and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

CLUB: Building or use catering exclusively to club members and their guests for recreational, educational, or service purposes.

COMMERCIAL SLAUGHTERHOUSE: As defined by 6 V.S.A. § 3302 (6) means any person engaged in the business of slaughtering livestock or poultry other than as a custom slaughterhouse or a person conducting slaughter under subsections 3312 (b), (c), and (d) of this title. Subsection 3312 provide specific criteria for the exemptions of bird slaughter.

COMMISSION: The Planning Commission of the Town created under 24 V.S.A. § 4321.

COMMON PLAN OF DEVELOPMENT: Is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

COMMUNITY FACILITY: Include all facilities listed as special public uses and exempt from certain portions of these Regulations pursuant 24 V.S.A. § 4413 implemented in Section 602 of these Regulations. As such, they include: State or community owned and operated facilities, schools, churches and other places of worship, hospitals and solid and hazardous waste management facilities,

COMMUNITY WATER SUPPLY SYSTEM: Any water system owned by one person that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more but less than ten (10) users.

COMMUNITY SEWAGE DISPOSAL SYSTEM: Any sewage disposal system, other than a municipal sewage disposal system, owned by one person that disposes of sewage for domestic, commercial, industrial, or institutional uses to two (2) or more users.

CONDITIONAL USE: Use which may be permitted only by approval of the Development Review Board after public notice and public hearing to determine whether the proposed use will conform to general and specific standards as set forth or referred to in this Regulation and pursuant to Section 4414(3) of the Act.

CONSTRUCTION DRAWINGS: Drawings showing the location, profile grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power and telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

CONTRACTOR'S YARD: Lot and /or buildings used to store a construction contractor's equipment and materials. This definition does not include retail building or construction equipment and materials stored for the purpose of retail sales.

CORNWALL TOWN PLAN, OR PLAN: A plan adopted pursuant to 24 V.S.A. §§ 4384 and 4385.

CRITICAL FACILITY: Includes 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.

DRB: The Development Review Board of the Town of Cornwall (See Section 503).

DAYCARE: See Family Childcare Home Facility.

DEER WINTERING AREA: Deer wintering areas within the Town of Cornwall shall constitute only those areas as depicted upon the Statewide Deer Wintering Area GIS data layer and map produced by the Agency of Natural Resources, Department of Fish and Wildlife, as it may be modified from time to time or modified by direct field

observations. A copy of the deer wintering area map for the Town of Cornwall is available at the Cornwall Town Clerk's office or may be viewed on the World Wide Web through the State of Vermont Agency of Natural Resource's Mapping website or at the Vermont Center for Geographic Information's ("VCGI") mapping website.

DEVELOPMENT: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DRAWING(S): A relatively informal depiction of information in a visual format, where unless specifically required, scale is not represented to be accurate.

DWELLING UNIT: Building or part thereof used as living quarters for one family. The terms "dwelling," "one-family dwelling," "two-family dwelling," or "multiple-family dwelling" shall not include a bed and breakfast or motor lodge.

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

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

DWELLING, MULTIPLE-FAMILY: Building used as living quarters by three or more families living independently of each other. Multiple-family dwelling structures with less than or equal to four units per structure are generally considered permitted uses in districts allowing multiple-family dwellings. Multiple-family dwellings with greater than four units per structure are generally considered conditional uses in districts allowing multiple-family dwellings. Existing Structures, as defined herein, (generally consisting of either large dwellings or agricultural structures that are converted to multiple-family dwellings, without changing the footprint of the existing structure) are generally considered permitted uses within districts that allow multiple-family dwellings.

EASEMENT: The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

EDUCATIONAL FACILITIES: The facilities of any private school, commercial school, or institutional educational facility.

EVENT VENUE: An indoor or outdoor location for which the primary purpose is the hosting of public or private events of more than 25 people. This definition includes conference centers, convention centers, dance halls, performance spaces, festivals, theaters, warehouses, and wedding sites.

EXISTING STRUCTURE: An existing structure shall be a structure substantially intact as of the effective date of these Regulations. Abandoned existing agricultural structures are encouraged for Adaptive Reuse. .

FAMILY: One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

FAMILY CHILD CARE HOME: A day care facility licensed or registered by the state which provides for care on a regular basis in the caregiver's own residence. See Section 406.

FARM STRUCTURES: Farm structure means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo. Farm structures exclude a dwelling for human habitation. (24 V.S.A. § 4413(d))

FARMING: As defined in 10 V.S.A. § 6001(22) means A) the cultivation or other use of land for growing food, fiber, Christmas tree, maple sap, or horticultural and orchard crops; or B) the raising, feeding, or management of livestock, poultry, fish, or bees; or C) the operation of greenhouses; or D) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or G) 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.

FEMA: Federal Emergency Management Agency

FENCE: Structure or vegetation used primarily for enclosure or screening.

FHBM: Flood Hazard Boundary Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FHBM is issued before the FEMA has conducted a flood study of the community.

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

FINAL SUBDIVISION PLAT: The final survey plat rendered by a licensed surveyor and meeting all the requirements of 27 V.S.A. § 1403 for recording, on which the applicant's plan of subdivision is presented to the Planning Commission. Applicant's plan of subdivision presented to the Planning Commission in this form, if approved, may be filed for record with the Town Clerk.

FINISHED GRADE: Completed surfaces of ground, lawn, walks, paved areas, and roads brought to grade as shown on plans relating thereto.

FIRM (Flood Insurance Rate Map): 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). A FIRM is issued after the FEMA has completed a flood study of the community.

FLOOD: means (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 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”).

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

FLOODWAY: 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. Note that Special Flood Hazard Areas and floodways may be shown on separate map panels.

FLOODWAY, REGULATORY IN TOWN OF CORNWALL: 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.

FLOOR AREA: Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

FLUVIAL EROSION: 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.

FORMULA BASED BUSINESS: A retail store, restaurant, hotel or other business establishment that stands alone as a principal use or with another use as an accessory use, and which is required by contractual or other arrangements to maintain any one or more of the following standardized features that causes it to be substantially identical to 10 or more other businesses located worldwide, regardless of the ownership of those

businesses; name; if food is served, menu, ingredients, uniforms, trademark; logo; symbol; architectural design; façade, signage; color scheme; merchandise, or any other similar standardized features.

FRONT YARD SETBACK: The depth of the front yard (distance from building front line to street line) plus the distance from the street line to the center line of the existing roadway. Where a lot fronts on public waters but not a public road, the front yard setback shall consist only of the depth of the front yard (building front line to mean water line).

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

GROUP RESIDENTIAL CARE HOME ("Group Home"): Any residential facility operating under a license or registration granted or recognized by a State agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs. Group homes shall be considered permitted uses in all districts on the same basis as single family homes, except that no such group home shall be permitted if it locates within 1,000 feet of another existing or permitted group home.

HEAVY MANUFACTURING OR INDUSTRY: The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in substantial off-site impacts or all such activity and storage of raw or finished products is 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: paper, pulp, or lumber mills; truck terminals; concrete, asphalt, or brick plants; quarries; bulk fuel storage; rendering, hide tanning, or curing plants; manufacturing or processing of fertilizer, bone, rubber, ammonia, chlorine, petroleum products, gas, or explosives; and other similar uses.

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 INDUSTRY: Home Industry constitute businesses operated on-site by residents of a single family dwelling that allow for an expansion of the business beyond the strict confines of a home occupation to include up to five (5) full time nonresident employees at any given time. To be considered a home industry, the property owner or

members of their family residing in the principal building shall operate the business within the principal dwelling or an existing accessory structure.

HOME OCCUPATION: The use of a minor portion of a dwelling for an occupation that is customary in residential or rural areas and that does not have an undue adverse effect on the character of the residential or rural area in which the dwelling is located as provided in 24 V.S.A. § 4412(4).

HOUSING, AFFORDABLE: Means either of the following: (A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following: (i) the county median income, as defined by the U.S. Department of Housing and Urban Development; (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development, or (B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following: (i) the county median income, as defined by the U.S. Department of Housing and Urban Development; (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development. 24 V.S.A. § 4303 (1).

HOUSING, LOW INCOME: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

HOUSING, MODERATE INCOME: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

INTERESTED PERSON: A person owning or occupying real property in the immediate neighborhood of a parcel of land that is the subject of any 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. An "interested person" who has participated in a proceeding before the DRB may appeal a decision rendered in that proceeding to the Environmental Court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. Please see 24 V.S.A. § 4465 for a more complete definition.

JUNK: Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof. (24 V.S.A. § 2241(5)).

JUNK YARD: See Salvage Yard.

KENNEL: Any lot or premise on which two or more dogs, at least four months of age, are boarded or are kept for sale or commercial breeding purposes.

LAND DEVELOPMENT: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure or land, or extension of use of land. (24 V.S.A. § 4303 (10))

LEGISLATIVE BODY: The Selectboard

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 licensed 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.

LIGHT MANUFACTURING OR INDUSTRY: The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in no substantial off-site impacts and all such activity and storage of raw or finished products is enclosed in a building, or is screened from the abutting properties and public rights-of-way. Such uses include but are not limited to the following: blacksmith's shop or foundry; cabinetry or woodworking shop; contractor's yards; diesel engine, truck, tractor, or heavy equipment storage, sales, or repair; electronics or high-tech manufacturing or assembly; machine shop; monument or stone works; sewing; printing; warehousing; wholesale trade; research and testing laboratory; and other similar uses.

LOADING SPACE: Off-street space, which is at least twelve feet wide, forty feet long, and at least fourteen feet high, not including access driveway, and having direct access to a street, used for the temporary location of one licensed motor vehicle.

LOT: For the purposes of land development, land and premises, with or without buildings, 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 public road or public waters, or other means of access as may be required elsewhere in these bylaws. This definition includes an existing small lot, per Section 311.6 which may not meet minimum area, width, or depth requirements.

LOT AREA: Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street.

LOT, CORNER: Lot which has an interior angle of less than 135 degrees at the intersection of two streets.

LOT COVERAGE: Lot coverage shall include all impervious surfaces constructed on a lot including buildings, accessory structures and driveways.

LOT DEPTH: Mean horizontal distance from the street center line to the rear lot line measured at right angles to the building front line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street center line" in this definition.

LOT FRONTAGE: Distance measured across the width of the lot at the public road or, in the absence of a public road, the public waters or an approved right of way.

LOT LINE: Property lines bounding a lot.

LOT LINE, REAR: The lot line opposite and most distant from the street line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street line" in this definition.

LOT WIDTH: Width measured at right angles to the lot depth, at the proposed or existing building front line.

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 CFR 60.3.

MANUFACTURED HOME: See Mobile Home

MAP: A document depicting information in a visual format. Maps are more formal than drawings and should depict information in an accurate scale, but are not guaranteed to the same precision as formally surveyed plats.

MIXED USE: Mixed uses of commercial and residential structures or developments are encouraged generally and especially in the village districts.

MOBILE/MODULAR/PREFABRICATED HOME: A prefabricated dwelling unit which is designed for long-term and continuous residential occupancy, is designed to be moved on wheels as a whole or in sections, and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on supports or foundation or any structure for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards

established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1) (governing mobile homes). This does not include a “recreational vehicle”.

MOBILE FOOD TRUCK: Motorized vehicles or trailers from which food or drink (prepared on-site or pre-packaged) is sold or served to the general public, whether consumed on-site or elsewhere.

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. §6201(2).

MOTOR VEHICLE SALES FACILITY: A retail establishment for the display and sale of motor vehicles, including but not limited to cars, trucks, vans, campers, boats, motorcycles, or snowmobiles. Includes an enclosed showroom and a parking lot.

MOTOR VEHICLE SERVICE STATION: Any lot or area of land, including the building or buildings, which has commercial facilities for lubricating, washing, painting, repairing, or servicing motor vehicles. Motor Vehicle Service Stations do not include the retail sale of gasoline or fuels.

MUNICIPALITY: Town of Cornwall.

MUNICIPAL SEWAGE DISPOSAL SYSTEM: Any sewage disposal system owned and operated by the municipality that disposes of sewage for domestic, commercial, industrial, or institutional uses.

NEW CONSTRUCTION: A structures, or part of a structure, for which the start of construction commenced on or after the effective date of these Regulations adopted by the community and includes any subsequent improvements to such structures.

NIGHTCLUB: An establishment that primarily prepares and serves alcoholic beverages for immediate consumption and offers live entertainment.

NONCONFORMING LOT OR PARCEL: Lots or parcels that do not conform to the present regulations covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator as per 24 V.S.A. § 4303(13).

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 Zoning Administrator as per 24 V.S.A. § 4303(14). 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: 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 Zoning Administrator as per 24 V.S.A. § 4303(15).

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

NON-RESIDENTIAL: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

OFFICIAL MAP: The map authorized under 24 V.S.A. § 4402 (5) and adopted according to 24 V.S.A. §§ 4441 and 4442 and modified according to 24 V.S.A. § 4421.

OPEN SPACE: Land not occupied by structures, buildings, streets, rights-of-way, and automobile parking lots.

OUTDOOR RECREATIONAL TRAILS: Walking, hiking, horse trails, cross-country skiing and snow mobile trails, or similar, which do not require the installation of structures or parking areas.

PARKING SPACE: A space off the public road which is at least 20 feet long and nine feet wide with a sufficient ground surface to permit year round use.

PERFORMANCE BOND: A performance bond constitutes a contractual obligation made by the applicant for the benefit of the Town protecting the Town against loss due to the inability of the applicant to install infrastructure benefiting the town as may be required as a condition of a subdivision permit.

PERMITTED USE: Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

PERSONAL LANDING AREA (PLA): Land maintained or improved for the purpose of allowing the owner's small private plane to land and take off with occasional use by others.

PERSONAL SERVICE: Barber, beauty parlor, shoe repair, Laundromat, dry cleaner, photographic studio, and other businesses providing similar personal services, except for medical services.

PLANNED UNIT DEVELOPMENT (PUD): An area of land to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any, the plan for which does not correspond in lot size,

bulk, or type of dwelling, commercial, or industrial use, density, lot coverage, and required open space to the zoning regulations established for the district in which it is proposed to be located. A PUD can encourage new communities, innovation in design and layout, and more efficient use of land. See Sections 4417 of the Act for a more detailed description of PUDs.

PLANS: Plans are generally equivalent to maps. They visually depict accurately scaled information, generally providing more detail than overall maps. Plans may consist of many maps or sheets of visually depicted data.

PLAT: A formal survey document of record describing a plot of land.

PRELIMINARY PLAN OR PLAT: The preliminary maps indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration.

PRIMARY AGRICULTURAL SOILS: Prime agricultural soils within the Town of Cornwall constitute units of prime and statewide agricultural soils as defined by the Natural Resource Conservation Service of the United States Department of Agriculture. A copy of a map locating primary agricultural soils for the Town of Cornwall is available at the Cornwall Town Clerk's office or may be viewed on the World Wide Web through the State of Vermont Agency of Natural Resource's Mapping website or at the Vermont Center for Geographic Information's ("VCGI") mapping website.

PROFESSIONAL OFFICE: Professional office including architect, accountant, dentist, doctor or other members of the medical professions for the diagnosis and out-patient treatment of human ailments, lawyer, engineer, psychologist, realtor or other similar occupations.

PUBLIC STREET OR ROAD: Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic exclusive of a driveway serving not more than two (2) singlefamily residential uses or lots.

PUBLIC WATER SYSTEM: Any water system(s) owned by one person that supplies water for public, domestic, commercial or industrial uses to ten (10) or more users by pipe connection or by containers.

QUARRYING: Marble, granite, or other stone extraction operations and any land development incidental thereto. Quarrying includes the enlargement of any existing quarrying excavations.

RECREATION, INDOOR: Bowling alley, theater, pool hall, arcade, skating rink, gymnasium, swimming pool, or other similar places of indoor recreation.

RECREATION, OUTDOOR: Low-impact dispersed outdoor commercial recreation including: firing ranges, a golf course or practice facility, outdoor educational facility, hunting preserve, skating rink, park, beach, swimming pool, cross country skiing facility, playground, ball field, or other similar places of outdoor recreation.

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.

REGIONAL PLANNING COMMISSION: Planning Commission for a region created under Subchapter 3 of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117.

RESIDENTIAL CARE FACILITY: Any residential facility for the diagnosis or treatment of human ailments, including but not limited to hospital, sanitarium, nursing home, convalescent home, and hospice.

RESIDENTIAL USE: One-family dwelling, two-family dwelling or multiple-family dwelling.

RESTAURANT: A public eating establishment in which the primary function is the preparation and serving of food.

RESUBDIVISION: A change of a recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map of plan legally recorded.

RETAIL STORE: Any enclosed business concerned primarily with the sale of produce, products, goods, equipment, or commodities; excluding any drive-in facility, free-standing retail stand, gasoline or motor vehicle service station, motor vehicle sales facility, restaurant, or junk yard. Retail stores may serve food and beverage for on premises consumption so long as less than 30% of the usable floor space of the store is devoted to that 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

RURAL ENTERPRISE: A business that supports economically viable farm and forest lands in the town by adding value to local farm or forest products. Direct marketing of local farm or forest products, engaging in agritourism or agri-education, or offering goods and services needed for farming or forestry.

SALVAGE YARD: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. This definition includes any outdoor area for operation of an automobile graveyard. It does not mean a garage where wrecked or disable motor vehicles are stored for less than 90 days for inspection or repairs. (24 V.S.A. § 2241 (7))

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

SENIOR LIVING FACILITY: Any age-restricted facility intended to provide residence for persons over 55. This includes apartments, congregate housing or retirement communities.

SERVICE AREA: A designated space used for waste storage or pickup, utility areas, or for the delivery of goods and services to any building or land use.

SHORT-TERM RENTAL: Rental of a home or apartment for a period of time less than thirty (30) days.

SIGN: 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.

SITE PLAN: The plan for the development of a lot, including any proposed change in use. Site plans shall be drawn in accordance with the requirements of these Regulations.

SITE PLAN REVIEW: Site Plan Review by the DRB shall be required for proposed commercial uses allowed “by right” within any given district, except home occupations, and which are not subject to subdivision or conditional use review. Unlike conditional use approval, site plan approval assumes that the use proposed is appropriate for the district in which it is located. As such, site plan review focuses solely on proper development within the site, not its compatibility or lack thereof with the surrounding area. Site plan review cannot be used to deny a project in the same way that conditional use or subdivision criteria would. However, the DRB may place conditions on any approval it gives to implement the objectives of the municipal plan as contemplated in the site plan review criteria contained in Section 606.

SKETCH PLAN: A drawing of a proposed subdivision showing information specified in Section 608 of these Regulations.

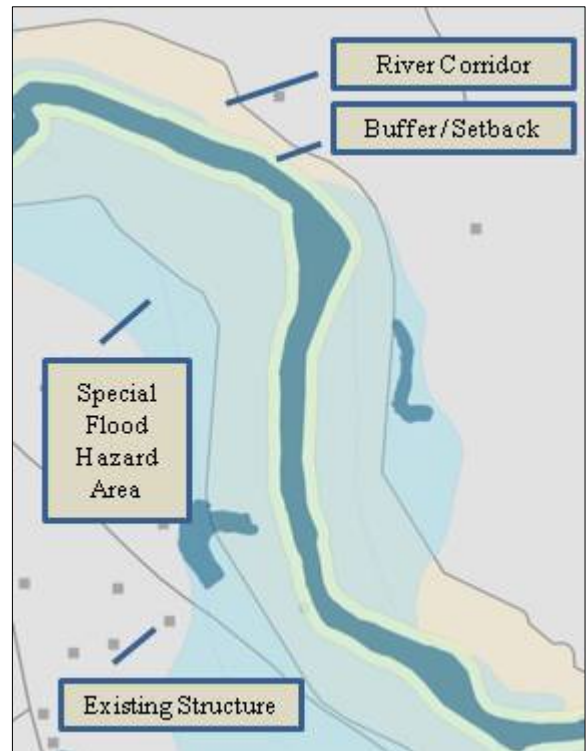
SKETCH PLAN MEETING: An informal open meeting between the Applicant and the DRB designed to save time and expense by allowing the Applicant to speak with the Board concerning the form a proposed subdivision might take and the objectives and requirements of these Regulations.

SOLAR COLLECTOR: A device or structure, combination or part thereof that transforms direct solar energy into thermal, chemical, or electrical energy.

SOLAR ENERGY SYSTEM: A complete design or assembly consisting of a solar energy collector, an energy storage facility, where used, and components for the distribution of transformed energy, to the extent that they cannot be used jointly with a conventional energy system. Passive solar energy systems, those which use natural or

architectural components to collect and store solar energy without using external mechanical power, are included in this definition.

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, AE, AO, AH, 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 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.



STABLE, PRIVATE: A facility where less than 4 horses are kept for private use. Private stables constitute accessory uses.

START OF CONSTRUCTION: For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. 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 structures, 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.

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

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

STRUCTURE: A walled and roofed building, as well as a manufactured home and any related built systems, including gas or liquid storage tanks, the use of which requires location on the ground, or attachment to something located on the ground, except walls, fencing or other structures exempt pursuant to Section 602 of these Regulations.

SUBDIVISION: The division of a parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, building development, or sale. Subdivision includes resubdivision.

SUBDIVISION, MAJOR: Any subdivision containing four (4) or more lots. Also, any subdivision containing two (2) or more lots which do not have frontage on any existing public street or which require any new public street.

SUBDIVISION, MINOR: A subdivision containing not more than three (3) lots which have frontage on an existing public street, and which does not require any new public street, extension of public street or of other municipal facilities.

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

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a 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”.

SURVEY PLAT: A map or representation of a parcel of land subdivided into lots and streets, drawn to scale by a licensed surveyor.

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

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

THREATENED AND ENDANGERED SPECIES: Threatened or endangered species in the Town of Cornwall are depicted upon the Statewide Non-game and Natural Heritage Threatened and Endangered Species GIS data layer and map produced by the Agency of Natural Resources as it may be modified from time to time or modified by direct field observations. A copy of the map generally locating threatened and endangered species for the Town of Cornwall is available at the Cornwall Town Clerk's office or may be viewed on the World Wide Web through the State of Vermont Agency of Natural Resource's Mapping website or at the Vermont Center for Geographic Information's ("VCGI") mapping website.

TOP OF BANK: means 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.

TOWN HIGHWAY, CLASS 1: Town highways designated by the Highway Board which are part of a State highway route and which carry a State highway route number.

TOWN HIGHWAY, CLASS 2: Town highways designated by the legislative body of the municipality with the approval of the Highway Board for securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amounts of traffic.

TOWN HIGHWAY, CLASS 3: All other traveled Town highways, other than Class 1 or Class 2, designated by the legislative body of the Town, after conference with a representative of the Highway Board.

TOWN HIGHWAY, CLASS 4: All other Town highways, including trails and pent roads, other than Class 1, 2, or 3 highways, designated by the legislative body of the Town.

UNDUE ADVERSE EFFECT: An impact in which any of the following conditions are met: A. The project violates a clear written community standard intended to preserve the character of the area, B. The project's impacts are shocking and offensive to the average person because it is out of character with its surroundings, or materially diminishes the quality of the area, C. The applicant has failed to take generally available mitigating steps to improve the compatibility of the project with its surroundings, D. The estimated overall negative effects of the project outweigh the estimated overall positive effects.

VARIANCE: A departure from the zoning bylaws which is granted or denied by the Development Review Board. The conditions specified in 24 V.S.A. § 4469 must exist in order for a variance to be granted.

VETERINARY CLINIC/ANIMAL HOSPITAL: A building or premises for the medical or surgical treatment of domestic animals. The boarding of animals shall be limited to a very limited number of animals and solely to those animals whose overnight care is medically necessary for their treatment

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.

WAIVER: 24 V.S.A., §4414 Chapter 117 authorizes the use of “waivers” under zoning to grant reductions in applicable dimensional requirements. These may be applied, in lieu of variance criteria, under standards and review procedures specified in these regulations.

WAREHOUSE: A structure or part thereof for storing goods, wares, and merchandise. A warehouse may include a wholesale establishment, discount house, bulk storage, and bulk sales outlet.

WETLANDS: Significant Wetlands within the Town constitute Class II wetlands as designated on the Vermont Significant Wetlands Inventory Map and GIS data layer produced by the Agency of Natural Resources, Department of Fish and Wildlife, as it may be modified from time to time or modified by direct field observations. A copy of the Vermont Significant Wetlands Inventory Map locating Class II wetlands within the Town is available at the Town Clerk's office or may be viewed on the World Wide Web through the State of Vermont Agency of Natural Resource's Mapping website or at the Vermont Center for Geographic Information's ("VCGI") mapping website.

WIND ENERGY CONVERSION SYSTEM: A device that converts wind energy to mechanical or electrical energy.

WORKER HOUSING: A dwelling where sleeping places are provided by an agricultural employer for his or her agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy.

YARD: Space on a lot which is not occupied by a building or structure.

YARD, REAR: Yard between the rear lot line and the building rear line.

YARD, SIDE: Yard between a side lot line and a building side line.

