

General

1000 Legal Framework

1001 Title

These are the Town of Londonderry's Unified Development Regulations and constitute the town's zoning, subdivision and flood hazard regulations.

1002 Authority

Londonderry adopted these regulations in accordance with and as authorized by the Vermont Municipal and Regional Planning and Development Act, 24 VSA Chapter 117, and 10 VSA Chapter 32.

1003 Purpose

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- a. Provide for orderly and coordinated development;
- b. Prevent land use and development from adversely impacting public safety and welfare;
- c. Protect important natural resources including wetlands, shorelands, floodplains, riparian buffers, priority forest blocks, significant wildlife habitat and primary agricultural soils;
- d. Allow for commercial and industrial land use and development to support a strong and diverse economy;
- e. Allow for outdoor recreation and tourism-oriented land uses and development that enhance Londonderry's quality of life and economy;
- f. Allow for residential land uses and development to meet the housing needs of residents and sustain a diverse population;
- g. Allow for agriculture, forestry, agri-tourism, value-added businesses and other resource-based land uses and development that sustain the town's rural character and economy;
- h. Facilitate the adequate and efficient provision of public services and facilities;
- i. Allow for growth to the extent that it does not exceed the existing capacity of, or the town's ability to adequately provide, public services and facilities;
- j. Provide for safe and adequate vehicular, pedestrian and emergency access to and within development sites;
- k. Require buildings, infrastructure and other structures to be built and maintained in a safe and adequate condition;
- l. Establish sound development and engineering standards that result in well-constructed projects that contribute positively to community character, enhance property values, and do not burden the town or future landowners with unreasonable

- m.
- n.
- o.
- p. Prevent land use and development that would detract from the natural beauty of the rural areas of town and the historic character of the villages.

1004 Applicability

*Unless specifically exempted in Subchapter **Sections 1100-1105**, all land development within the Town of Londonderry requires a zoning permit or subdivision approval issued in accordance with these regulations. Land development means:*

- a. The division of a parcel into two or more parcels;
- b. The construction, reconstruction, demolition, structural alteration, conversion, relocation or enlargement of any structure;
- c. Mining, excavating or filling land; or
- d. Any change in, or extension of, the use of land or a structure

Commented [WG1]: ZA thought that the distinction between subchapters and sections was confusing.

1005 Relationship With Other Laws or Regulations

If any provision of these regulations is more restrictive than any other law, regulation or code, the provision of these regulations will apply and take precedence.

If any provision of another law, or regulation or code is more restrictive than these regulations, the provision of these regulations will be superseded, and the more restrictive provision will apply.

No provision of these regulations will be interpreted to prevent the Town of Londonderry from acting to prevent or eliminate threats to public health, safety and welfare in accordance with other town codes or ordinances and under the authority granted to the municipality by the State of Vermont.

1006 Effective Date

These regulations and any subsequent amendments will take effect 21 days after their adoption by the Londonderry Selectboard in accordance with the procedures established in the Vermont Municipal and Regional Planning and Development Act.

1007 Amendment or Repeal

The Town of Londonderry may amend or repeal these regulations, in whole or part, at any time in accordance with the procedures established in the Vermont Municipal and Regional Planning and Development Act.

1008 Severability

If a court of competent jurisdiction invalidates any provisions of these regulations, that decision will not affect the validity, application or enforcement of the remaining provisions of these regulations.

1009 Disclaimer of Liability

These regulations do not create any liability on the part of the Town of Londonderry, its officials, agents, employees, or representatives for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.

1100 Exemptions and Limitations

1101 General Exemptions

Except within the Flood Hazard Overlay District, a riparian setback, a wetland or a wetland setback landowners do not need to obtain a zoning permit for the land use and development activities listed below. For land use and development activities within the Flood Hazard Overlay District see Section 2201. For development in riparian setbacks, wetland, or wetland setbacks contact the Zoning Administrator. Unless specifically stated otherwise, land development that is exempted is not required to meet dimensional (setback, height, etc.) or other standards of these regulations.

Commented [WG2]: Except within the Regulated Flood Hazard Area, a riparian setback, a wetland or a wetland setback, or a road right-of-way

- a. Emergency repair and stabilization of a structure damaged or destroyed by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Landowners must obtain a zoning permit for repair or reconstruction beyond the minimum necessary to stabilize and secure the structure. See Section 1207 and 5003.D(1) or 5003.D(5), as applicable.
- b. Normal maintenance and repair of an existing structure other than a sign (for more information on signs see Section 3107), including interior alterations to a building, that does not change the:
 1. Structure's exterior dimensions, wastewater generation or use;
 2. *Amount of floor area associated with an existing non-residential use;*
 3. Number of bedrooms in a dwelling; or
 4. Number of units (residential or non-residential) in the structure.
- c. Normal maintenance and repair of sidewalks and walkways, including replacement or reconstruction within the same footprint as the original.
- d. Normal maintenance and repair of **essential services, electricity, gas, telephone, cable, water or sewer infrastructure**, including replacement or reconstruction within the same footprint as the original.
- e. Installation, maintenance, repair and replacement of wastewater disposal and potable water systems (a state Wastewater System and Potable Water Supply Permit may be required, contact the state permit specialist at the Springfield Regional Office of the Vermont Department of Environmental Conservation);
- f. Landscaping, grading and excavating associated with:
 - *Normal maintenance and repair of roads, driveways, parking areas, sidewalks, walkways, stormwater facilities or essential services; and*
 - *Site improvements that do not result in more than 70 cubic yards of soil being removed from or brought onto the lot within any calendar year and that do not affect existing drainage patterns on adjacent lots or public rights-of-way.*
- g. Construction of a pond that will:
 - *Have a surface area of not more than 500 square feet $\frac{1}{2}$ acre or 20% of the lot area, whichever is less;*

Commented [WG3]: a)Amount of floor area or functional headroom associated with an existing use,

Commented [WG4]: Changed to 1 acre of disturbed soil in the latest draft

- *Not exceed a depth of 10 feet;*
- *Meet applicable setback requirements for the zoning district;*
- *Not involve damming or otherwise altering a stream or other natural water body;*
- *Not affect existing drainage patterns on adjacent lots or public rights-of-way; and*
- *Not be located within a wetland, wetland buffer, riparian buffer or flood hazard area.*

h. Demolition of a fence or an accessory structure with a footprint of 500 square feet or less.

i. Replacement or reconstruction of an existing fence or wall that is in the same location and is not higher than the original.

j. A new fence or wall (see Section 3013 for further guidance on fences and walls, including how to measure height) that:

- *Is not more than 4 feet tall, if functioning as a retaining wall, or is not more than 6½ feet tall otherwise;*
- *Does not extend into or obstruct a public right-of-way;*
- *Does not interfere with corner visibility or sight distance for vehicular traffic;*
- *Does not affect existing drainage patterns on adjacent lots or public rights-of-way;*
- *Does not pose a safety hazard;*
- *Is not designed to inflict physical harm; and*
- ~~*Is installed so that any support posts are to the inside and the “finished” or “good” side faces out.*~~
- ~~*Snow fences installed no earlier than October 15 and removed by May 15.*~~

k. An above ground fuel tank that:

- *Holds not more than 1,000 gallons of propane 500 gallons of other kinds of fuel for on-site use;*
- ~~*Is located to the side or rear of the building being served;*~~
- *Meets applicable setback requirements for the zoning district; and*
- *Is sited, installed and secured in accordance with state and federal regulations.*

l. Any ground-mounted HVAC system, back-up generator or similar mechanical equipment that:

- *Has a footprint or is placed on a pad that does not exceed 200 square feet;*

- *Is located to the side or rear of the building being served;*
- *Meets applicable setback requirements for the zoning district; and*
- *Is sited, installed and secured in accordance with state and federal requirements.*

m. An **above ground** swimming pool that:

- *Does not exceed a horizontal width of 20 feet in any dimension or a depth of 5 feet;*
- *Meets applicable setback requirements for the zoning district; and*
- *That is installed and secured to prevent unauthorized access (see *Above ground**

n. *skate ramps, trampolines, tents and similar small portable structures under 400 square feet that meet district setbacks.*

o. *One portable carport, canopy, storage tent, storage shelter, greenhouse, hoop house or similar lightweight accessory structure per lot that (additional structures may be allowed with a zoning permit, see Section 3019):*

- i. *Has a footprint that does not exceed 200 square feet;*
- ii. *Is not more than 12 feet tall;*
- iii. *Is not affixed to a permanent foundation;*
- iv. *Meets applicable setback requirements and lot coverage for the zoning district; and*
- v. *Is not used as a dwelling.*

p. *An unroofed patio or deck that:*

- i. *Has a footprint that does not exceed 200 square feet; and*
- ii. *Meets applicable setback and lot coverage requirements for the zoning district.*

q. *Wheelchair ramps, uncovered entry stairs, or walkways that do not:*

- *Exceed 6 feet in width;*
- *Extend into or obstruct a public right-of-way;*
- *Interfere with corner visibility or sight distance for vehicular traffic; or*
- *Affect existing drainage patterns on adjacent lots or public rights-of-way.*

r. *One accessory structure not otherwise exempted under this section that (additional structures may be allowed with a zoning permit, see Section 3003):*

- i. *Has a footprint that does not exceed 200 square feet;*
- ii. *Is not more than 12 feet tall;*
- iii. *Does not have a permanent foundation;*

- iv. Meets applicable setback and lot coverage requirements for the zoning district; and*
- v. Is not used as a dwelling unit.*

s. **Outdoor light fixtures that:**

- i. Have an initial output that does not exceed 2,000 lumens; and*
- ii. Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.*
- iii. Holiday light displays that are illuminated for not more than 45 consecutive days and 90 days total in any calendar year.*

t. Signs listed in Subsection 3107.C, and street and traffic control signs.

u. Cisterns, mailboxes, newspaper tubes, house numbers and clotheslines.

v. A solar energy device that:

- Will be installed on and project not more than 10 feet above the surface of a roof with a slope greater than 5%; or
- Will be installed on a roof with a slope of 5% or less.

w. A television antenna, radio antenna, satellite dish or similar device used to provide on-site communication service that:

- Is not more than 15 square feet in area, if a dish antenna;
- Does not extend more than 12 feet above the roofline, if attached to a building;
- Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure);
- Meets applicable setback requirements for the zoning district;
- Does not interfere with public safety communications; and
- Is installed in the least visible location where it can reasonably function.

x. Antennas mounted on existing structures, which are used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes and do not interfere with public safety communications.

y. Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.

z. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

aa. The replacement of an existing electrical distribution or communications distribution pole with a new pole.

bb. A transit shelter not within a road right-of-way that has a footprint of not more than 200 square feet and that is not more than 12 feet tall.

ee. Public art that does not:

Commented [WG5]: Anything that might be construed to require a zoning permit for lighting at a single family home were removed

- i. Function as a commercial sign;*
- ii. Extend into or obstruct a public right of way unless specifically authorized by the town or state, as applicable;*
- iii. Interfere with corner visibility or sight distance for vehicular traffic;*
- iv. Affect existing drainage patterns on adjacent lots or public rights of way; and*
- v. Pose a safety hazard.*

dd. A home occupation that ~~meets the requirements of section 3206 (for home occupations or businesses that do not qualify for this exemption see Section 3206 or Section 3207 as applicable)~~:

- i. Is located within a dwelling unit;*
- ii. Occupies not more than 25% of the habitable floor area of that dwelling;*
- iii. Is carried out by one or more residents of that dwelling;*
- iv. Does not have any non resident employees working from that dwelling; and*
- v. Does not have a sign.*

ee. ~~Garage sales, yard sales, tent sales, auctions or similar activities or special events that do not occur on the lot for longer than 3 days in any calendar year.~~

ff. Mobile food service that is not located on a parcel for longer than 3 consecutive days and for more than 8 days in any calendar year.

gg. Farmers' markets that do not occur on the lot for longer than 1 consecutive day and for more than 26 days in any calendar year. A farmers' market will be considered a retail use subject to permitting and approval under these regulations if improvements are made to the site to accommodate the use such as parking, signage or structures that remain on the site when the market is not open. ~~Farmers markets must receive an itinerate vendors license from the selectboard.~~

hh. Garage sales, yard sales, tent sales, auctions ~~Casual Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that do not occur on the lot for more than 30 three consecutive days or more than 12 days in any calendar year (calculated cumulatively if occasional or isolated taxable sale by a person who is not in the business of selling taxable property or services. When there is no intention of making sales on a daily or weekly basis, goods are offered for sale at more than one time during the year) and that are limited to not more than 3 items at any given time if displayed outside.~~

- ii. Use of public or private land for hunting, fishing or trapping in accordance with state regulations. Any structures associated with such use and facilities supporting such activities such as firing ranges or clubhouses will require a zoning permit.*
- jj. Use of public or private land for noncommercial use of firearms in accordance with state regulations (any structures with permanent foundations associated with such use may require a zoning permit).*

Commented [WG6]: 1. Garage sales, yard sales, tent sales, auctions, casual sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that do not occur on the lot for more than 12 consecutive days in any calendar year

- kk. Use of public or private land for noncommercial ~~passive~~ outdoor recreation ~~or~~ ~~gardening~~ (any structures with permanent foundations associated with such use may require a zoning permit).
- ll. Non-commercial unimproved paths and trails.
- mm. Unimproved trails on private land associated with and managed by the operator of a lawful resort or commercial outdoor recreation use. The trail use will be considered a commercial outdoor recreation use subject to permitting and approval under these regulations if permanent improvements are made to the site to accommodate the use such as non-exempt signage (see Subsection 3107.C) or warming huts.
- nn. Land development within public road rights-of-way that is subject to approval from the town or state as applicable.

1102 Development with a Certificate of Public Good

In accordance with state statute, landowners do not need to obtain a zoning permit for development associated with utility, energy or telecommunications infrastructure that receives a Certificate of Public Good from the Public Utility Commission.

1103 Farming and Forestry

In accordance with state statute, landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted ~~silvicultural~~~~forestry~~ practices as defined by the State of Vermont Agency of Agriculture or Department of Forests, Parks and Recreation, respectively. The Administrative Officer may require a landowner to submit a written determination from the applicable state agency as to whether the subject land use activity is a required agricultural or accepted silvicultural practice.

In accordance with state statute, landowners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:

- a. Landowners must submit a zoning permit application demonstrating that proposed development qualifies as an exempt farm structure, but they do not have to pay the associated application fee.
- b. The Administrative Officer may require landowners to provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed development qualifies as an exempt farm structure.
- c. Farm structures, other than walls or fences (see Paragraph 5003.F(5)) used for farming purposes, must meet the setback requirements for the district unless the applicant provides the Administrative Officer with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the district.

d. Upon finding that the proposed development qualifies as an exempt farm structure, the Administrative Officer will issue the landowner a letter informing the landowner that he/she may build and use the structure for farming purposes in accordance with the state's required agricultural practices without a zoning permit, but that he/she must obtain a zoning permit before using the structure for any other purpose **other than non-commercial storage**.

1104 Government and Community Facilities

The provisions of this section apply to the following government and community facilities:

- a. Institutions or facilities owned and operated by the town or state;
- b. Public and private schools or other educational institutions certified by the state;
- c. Places of worship or religious institutions;
- d. Public and private hospitals certified by the state
- e. Fire houses and ambulance stations serving the Town of Londonderry; and
- f. Waste management facilities certified by the state.

Government and community facilities are allowed in specified zoning districts (see Section 2302). Landowners must obtain a zoning permit and site plan approval for development associated with a government or community facility, unless otherwise exempted under these regulations.

Development associated with a government or community facility must meet the same standards as comparable types of private development unless the applicant demonstrates that meeting the standard(s) will interfere with the intended function or use of the government or community facility in accordance with state statute.

1105 Group Homes

In accordance with state statute, landowners do not need to obtain a zoning permit to use a lawful single-unit dwelling as a group home that will:

- Not serve more than 8 residents who have a disability (for larger facilities, see Section 3210);
- Not be located closer than 1,000 feet from another residential care or group home as measured from property line to property line; and
- Be operated under state licensing or registration.

Landowners must obtain a zoning permit for home construction or other associated development to the same extent as required for other single-unit dwellings in the zoning district.

Commented [WG7]: 1104. Government and Community Facilities

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

- 1.State- or community-owned and -operated institutions and facilities.
- 2.Public and private schools and other educational institutions certified by the Agency of Education.
- 3.Churches and other places of worship, convents, and parish houses.
- 4.Public and private hospitals.
- 5.Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- 6.Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
- 7.Emergency shelters.
- 8....Hotels and motels converted to permanently affordable housing developments.

1200 Prior Applications, Approvals and Uses

1201 Prior Applications

The Administrative Officer and Development Review Board will review applications based on the regulations in effect at the time the Administrative Officer determined that the filed application was complete.

1202 Prior Permits and Approvals

Zoning Permits Issued Prior to Amendment or Adoption of these Regulations. *If the Administrative Officer lawfully issued a zoning permit before the Town of Londonderry adopted or amended these regulations, an applicant will not need a new or amended permit for the project. If such an applicant does not substantially complete the development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.*

Prior Zoning Permits for Phased Projects. *If an applicant received approval for a phased project before the Town of Londonderry adopted or amended these regulations, the Administrative Officer will issue permits for the development as approved irrespective of any change in the regulations. However, if such an applicant does not substantially complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.*

Prior Development Approvals. *If an applicant does not obtain a zoning permit for proposed development, other than a subdivision, that the Development Review Board approved within 12 months of receiving that development approval, the approval will expire and the applicant will need to apply for a new approval under the regulations in effect at the time of the new application. (Note: An applicant may request a delay in effect for a zoning permit and/or development approval in accordance with Subsection 4203.B.)*

Effect of Change in Ownership. *Zoning permits and development approvals remain valid irrespective of any change in ownership of the property.*

Lawfully Recorded Subdivision Plats. *If an applicant lawfully recorded an approved subdivision plat in the Londonderry land records, that plat will remain valid and will not expire irrespective of any change in these regulations or in ownership of the property.*

1203 Change of Use

Change from One Use Definition to Another. *A landowner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same use definition in Section 2302 (e.g., a personal service use like a barber shop to a restaurant use like a coffee shop).*

Change within a Use Definition. A landowner will not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same definition in Section 2302 (e.g., a retail sales use like a book store to a retail sales use like a home furnishings store). Other site development associated with the change of use may require a permit or approval (e.g., new or modified signage, outdoor lighting, parking, etc.).

1204 Expansion of Use

Nonresidential Uses. A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a ~~non-residential~~ use to occupy additional space in a building or on a lot.

Residential Uses. A landowner will not need to obtain a zoning permit to expand a residential use to occupy existing space in the building provided there is no increase in the number of bedrooms.

1205 Discontinued Uses

Nonresidential Uses. A landowner must obtain a new zoning permit in accordance with these regulations, and any development approvals as applicable, to resume a lawful non-residential use (if the use is nonconforming, see Section 1302) that has been discontinued for more than ~~24 months~~ **3 years** except:

- a. If the landowner has had to discontinue a non-residential use as result of damage to the structure in which it is housed, the owner may re-establish the use once the structure has been repaired or rebuilt in accordance with Section 1207.
- b. The Administrative Officer may extend the period of discontinuance for a conforming use another 12 months if the landowner demonstrates that he/she is actively marketing the property or business for sale or lease.

Commented [WG8]: A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a use to occupy additional space in a building or on a lot.

Residential Uses. A landowner will not need to obtain a zoning permit to resume residential use of a lawful vacant dwelling unit (if the use is nonconforming, see Section 1302).

1206 Abandoned Development

If the development authorized by a zoning permit is abandoned without being completed prior to the expiration of the zoning permit authorizing the development (see Subsection 4203.C), & the DRB may require after a warned hearing that the landowner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to the zoning permit expiring.

1207 Damaged or Destroyed Structures

Stabilize and Secure. A landowner must act promptly to stabilize and secure a structure that was damaged or destroyed (as defined in 5003.D(1) or 5003.D(5)) as necessary to protect public health and safety, and to maintain it in that condition until such time as it is demolished or reconstructed.

Demolition or Reconstruction. Within 12 months of a structure being damaged or destroyed (as defined in 5003.D(1) or 5003.D(5)), a landowner must obtain a zoning permit for either reconstruction or demolition of the structure. The landowner will not have to pay the associated application fee if a complete application is filed within 12 months of the structure being damaged or destroyed. See Section 3007 for guidance on demolition.

Extension of Period to Act. The Administrative Officer may extend the deadline to obtain a zoning permit to not more than 24 months in the case of a declared disaster or upon the landowner demonstrating that the deadline cannot be met due to factors beyond his or her control (e.g. legal or insurance processes).

Failure to Act. The failure to obtain a zoning permit for demolition or reconstruction, or to maintain a damaged or destroyed structure as required under this section will be considered a violation of these regulations subject to enforcement under **Subchapter Section 4600-4605**.

Nonconforming Structures. If a nonconforming structure is damaged or destroyed **by a cause other than neglect**, a landowner may rebuild and use the structure in accordance with Section 1301 provided that:

- a. The structure as reconstructed is not more nonconforming than the original structure; and
- b. The landowner submits a complete application for a zoning permit for reconstruction within **12 months 3 years** of the structure being damaged or destroyed.

1300 Nonconformities

1301 Nonconforming Structures

General. *A nonconforming structure that lawfully existed when the Town of Londonderry adopted or amended these regulations may continue to exist unchanged indefinitely.*

Use. *A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any land use allowed in the zoning district.*

Repair and Maintenance. *A landowner may undertake normal repair and maintenance of a nonconforming structure without a zoning permit in accordance with Paragraph 1101.A(2).*

Additions. *Changes to nonconforming structures that can be approved by the Zoning Administrator*

The Administrative Officer may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure provided that the proposed development:

- a. Will not result in any expansion (horizontal or vertical) of that portion of the nonconforming structure that extends into the minimum setback or beyond the maximum building height;
- b. Will not convert a nonconforming porch, deck, entryway or similar feature to enclosed and/or conditioned building space;
- c. Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
- d. Would not otherwise require a development approval from the Development Review Board.
- e. Is for the Replacement of a nonconforming porch or deck in the same footprint.
- f. Is for the replacement all or part of a foundation without moving a structure.

g. Code or Accessibility Improvements. The Administrative Officer may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure, including further encroachments beyond the existing nonconforming building line or height, to the minimum extent is necessary to comply with state or federal building code, energy code or accessibility requirements.

Damaged or Destroyed Structures. A landowner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been damaged or destroyed by any cause other than neglect (as defined in 5003.D(1) or 5003.D(5)) in accordance with Section 1207 and provided that the repair or reconstruction does not change the exterior dimensions of the structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height. *For rules on rebuilding nonconforming structures in flood zones see section xxxx. For rules on rebuilding nonconforming structures in wetlands see xxxx, riparian buffers, section xxxx.*

CHANGES TO NONCONFORMING STRUCTURES THAT REQUIRE A HEARING. Other changes to nonconforming structures require a waiver (see section 4404) or a variance (see section 4405) from the DRB.

1302 Nonconforming Uses

General. A nonconforming use that lawfully existed when the Town of Londonderry adopted or amended these regulations may continue to exist in its current location, configuration and intensity indefinitely.

Relocation. A landowner must not move a nonconforming use from one location to another where it would also be a nonconforming use.

Resumption. A landowner must not resume a nonconforming use that he/she abandoned, discontinued or replaced with another use for more than 24 months 3 years. If a nonconforming use is located in a structure that is damaged or destroyed (as defined in 5003.D(1) or 5003.D(5)), the landowner may resume the use once the structure is repaired or rebuilt in accordance with Section 1207.

Minor Expansion. The Administrative Officer may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to:

- a. Fully occupy space within the associated structure as that structure existed when the use became nonconforming; or
- b. Occupy up to 25% more floor area than when the use became nonconforming in another structure or in a lawful addition to the existing structure.

Major Expansion. *The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use upon the applicant demonstrating that the proposed extension or expansion will not result in greater adverse impacts on the character of the area.*

Change of Use. *The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature, have fewer off-site impacts and will be more compatible with the character of the area than the existing nonconforming use.*

1303 Nonconforming Lots

General. *A nonconforming lot may continue to exist unchanged indefinitely.*

Merger. *If a nonconforming lot comes into common ownership with one or more contiguous lots, Londonderry will not deem the lots merged with the contiguous lot(s) for the purposes of these regulations (a landowner may choose to merge contiguous lots in accordance with Section 4307). Lots deemed merged under the previous bylaws will be deemed unmerged by this new rule.*

Lot Size. *In accordance with statute, a landowner may develop a lot that does not meet the minimum lot size for dimensional standards of the zoning district in accordance with all other applicable provisions of these provided that the lot:*

- a. Is legally subdivided and able to be conveyed separate from any other lot;
- b. Existed as of the effective date of these regulations;
- c. Is at least $\frac{1}{4}$ acre (5,445 square feet) $\frac{1}{4}$ acre in area; and
- d. Is not less than 40 feet wide or deep.

Lot Frontage. *A landowner with an existing lot that does not meet the minimum lot frontage for the zoning district:*

- a. May develop that lot in accordance with all other applicable provisions of these regulations provided that:
 - i. *The lot has access to a maintained public or private road by at least 35 feet of lot frontage, or after approval by the DRB, by a permanent easement or right-of-way at least 35 20 feet in width; and*
 - ii. *Access to the proposed development will conform to the requirements of Section 3002.*
 - iii. *The applicant is able to get a highway access permit from the Selectboard.*
- b. Must not subdivide that lot unless:
 - i. *The lot has access to a maintained public or private road by lot frontage, permanent easement or right-of-way at least 50 feet in width or the applicant obtains a waiver in accordance with Paragraph 4404; and*
 - ii. *Access to the subdivided lots will conform to the requirements of Section 3002.*

1304 Creation of a Nonconformity

The Town of Londonderry prohibits any development that would create a nonconformity except that a public project that requires the transfer or taking of land (e.g., road widening) may create a nonconformity.

1. Zoning Districts

2001 General Provisions

2002 Establishment of Base Zoning Districts

*These regulations establish the following zoning districts as shown on the Official Zoning Map and described in **Subchapter Sections 2100-2107**:*

- ~~a. Village Business (VB);~~
- ~~b. Village Mixed Use (VMU);~~
- ~~c. Village Residential (VR);~~
- ~~d. General Business (GB);~~
- ~~e. Recreation (REC);~~
- ~~f. Residential (RES); and~~
- ~~g. Rural (RL);~~
 - Village Residential District
 - Residential District
 - Rural District
 - Village Commercial District
 - General Commercial District
 - Recreation Commercial District

2003 Establishment of Overlay Zoning Districts

*These regulations establish the following overlay zoning districts as shown on the Official Zoning Map and described in **Subchapter Section 220**:*

- a) Aquifer Protection Overlay (APO); and
- b) Conservation Overlay (CO); and
- c) **Flood Hazard Overlay (FHO).**
- d) Shoreland district

Commented [WG9]: Flood Overlay section has been completely updated for the latest draft

2003 **Official Zoning Map**

The Town of Londonderry incorporates the maps delineating the boundaries of the various base and overlay zoning districts established in this chapter by reference into these regulations and adopts them as part of these regulations as the Town of Londonderry's Official Zoning Maps.

The Official Zoning Maps are on file in the town office. The map on the town website and the small-scale, unofficial versions of the maps included in these regulations are for convenience only. The Official Zoning Maps must be used for all measurements and interpretations of the district boundaries.

If a specific distance or measurement is not specified on the map, the Administrative Officer will interpret any Official Zoning Map boundaries:

- a) Following, paralleling or extending from roads, railroad lines, power lines or rights-of-way to follow, parallel or extend from the centerlines of such roads, railroad lines, power lines or rights-of-way;
- b) Following or extending from lot lines or municipal boundaries to follow or extend from such lines or boundaries; and
- c) Following or paralleling rivers, streams or other drainageways to follow or parallel the centerlines of such rivers, streams or drainageways.

The Administrative Officer will interpret any of the features listed in Subsection to be located where they exist on the ground or as shown on a survey at the time of the interpretation if they vary from their depiction on the Official Zoning Map except that:

- a) A boundary line adjustment, lot merger, subdivision or other change to the location of a lot line will not change the location of any zoning district boundary indicated as following that lot line; and
- b) The reclassification or discontinuance of a road will not change the location of any zoning district boundary indicated as following that road.

2004 Lots Divided by a Zoning District or Municipal Boundary

Zoning District Boundary. *When a lot includes land in two or more zoning districts, proposed development on the portion of the lot in one zoning district may only extend across the district boundary if it conforms to the standards of the adjoining district(s). Also see Paragraph .*

Municipal Boundary. *When a lot includes land in two or more municipalities, proposed development may only extend into the portion of the lot in Londonderry if it conforms to the standards of the applicable district. However, the standards of the applicable district can be met by considering the entire lot including portions not located in Londonderry (ex., lot size, frontage and access requirements can be met from land in the other town).*

2005 Use Standards

Allowed Uses. *A proposed use must be listed as a permitted or conditional use in the applicable zoning district unless the subject use is a nonconformity and the proposed development is in conformance with the requirements of Chapter 1300.*

- h. **Permitted Uses.** The Administrative Officer may issue a zoning permit for a new permitted use in accordance with Subchapter Section 4200. Site Plan Approval. Uses other than signs, farming, forestry, single- and two-unit dwellings, and related accessory uses will also require site plan approval under Section 4304.
 - i. **Conditional Uses.** The Administrative Officer may issue a zoning permit for a new conditional use in accordance with Subchapter Section 4200 only after the applicant obtains a conditional use approval from the Development Review Board under Section 4305.

Prohibited Uses. *A use not specifically listed as permitted or conditional in a zoning district is prohibited in that zoning district unless the applicant demonstrates to the Administrative Officer that the unlisted use:*

- a) Is materially similar to a use that is permitted or conditional in the same zoning district in accordance with Subsection ; or
- b) Is required to be allowed in a zoning district by state or federal law.

Materially Similar Uses. *The Administrative Officer may make a written determination that a proposed use not listed on the use table as permitted or conditional in any district is materially similar to a use listed as permitted or conditional in the applicable zoning district and that the unlisted use should be allowed to the same extent and subject to the same standards as that listed permitted or conditional use. To determine that a use is materially similar, the Administrative Officer must find that the proposed use has:*

- a) Similar impacts such as traffic, noise and lighting as the listed use; and
- b) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips and signage as the listed use.

Multiple and Mixed Uses. *In a commercial district A landowner may use a lot or structure for any combination of uses allowed in the applicable zoning district. Also see Paragraph . Each use will be individually reviewed and permitted under these regulations based on the standards of the zoning district and any other standards of these regulations that are applicable to the proposed use. The total amount of development on the lot must not exceed the maximum lot coverage allowed in the district;*

Principal Buildings In residential districts. *Landowners may locate more than one principal building on a lot in residential districts. There shall be no more than one principal building on a lot in residential districts. accordance with the standards below In (also see Paragraph);*

- a) The total amount of development on the lot must not exceed the maximum lot coverage allowed in the district;
- b) There must not be more than 1 2 detached single- or two-unit dwellings on any lot unless approved as part of a planned unit development;
- c) Each principal building must meet the applicable dimensional standards of the zoning district;
- d) The distance between new principal buildings or between a new principal building and an existing principal building must not be less than twice the side setback required in the zoning district, unless they are attached (see Subsection); and
- e) Approval of multiple principal buildings on a lot will not constitute a right to convey them separately unless:
 - i. The subject lot will be lawfully subdivided in accordance with the provisions of these regulations; or
 - ii. The building will be lawfully converted to condominium ownership, which may include the subdivision of footprint lots.

Commented [WG10]: SOP draft allowed 2 houses and 2 accessory dwellings per lot.

Accessory Structures. *Landowners may locate accessory structures on a lot in accordance with Section 3003.*

Accessory Uses. *A landowner may establish accessory uses on a lot in accordance with Section 3004.*

2006 Dimensional Standards

Applicability. *Development must conform to the dimensional standards for the applicable zoning district unless:*

- a. A subject lot or structure is nonconformity and the proposed development is in conformance with the requirements of Chapter 130;
- b. The applicant receives a waiver (Section 4404) or variance (Section 4405) from the Development Review Board; or
- c. The proposed development will be approved as a planned unit development (see Subchapter Section 340).

Lot Size. *Lot size will be regulated as follows:*

- a) ~~Lot size will be measured as the total area within the property boundaries excluding any land within a road right of way;~~
- b) Any lot created under these regulations must meet the minimum lot size requirement for the applicable zoning district unless approved as part of a planned unit development;
- c) The Development Review Board must not grant a waiver or variance under Section 4404 or Section 4405 to allow the creation of a lot that does not meet the minimum lot size requirement for the applicable zoning district;
- d) A pre-existing developed lot that does not meet the minimum lot size requirement for the applicable district may be used and further developed as allowed in the applicable zoning district;
- e) A pre-existing undeveloped lot that does not meet the minimum lot size for the applicable district may be developed in accordance Section 1303;
- f) An existing lot must not be reduced in size below the minimum lot size requirement for the applicable zoning district unless the reduction is the result of land being acquired for a public purpose (ex. road widening); and
- g) A lot created under these regulations that will include land in more than one zoning district must meet the minimum lot size requirement for the zoning district that the portion of the lot with road frontage is located in. If the lot has road frontage in more than one zoning district, the lot must meet the largest minimum lot size requirement.

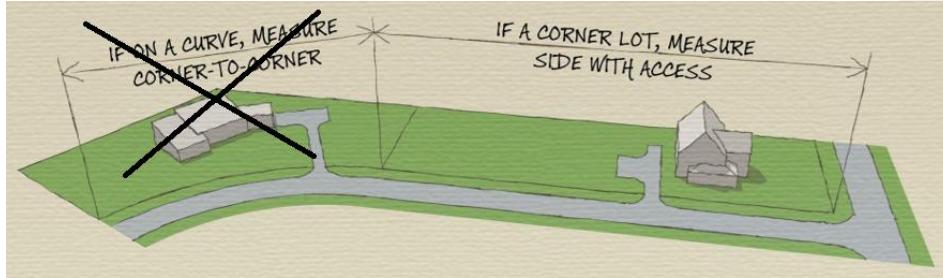
Lot Frontage. *All lots must front on a public or private road as specified in the applicable zoning district as follows:*

- a. ~~Measurement.~~ *Lot frontage will be measured along the edge of the right of way. If the edge of the right of way is a curved line, the measurement will be taken along an imaginary straight line drawn between the points where the side lot lines meet the edge of the right of way. (See Figure 2-01).*
- b. **Pre-Existing Lots.** The Administrative Officer and Development Review Board must not issue a permit or approval for development on an existing lot without the minimum required frontage on a maintained public (state highway, or Class 1, 2 or 3 town highway) or private road unless that lot has access to such a road over a permanent easement or right-of-way **which is** not less than 20 feet wide. **For accessing lots on Class 4 roads, see section 3002.**
- c. **Corner Lots.** Lots that front on more than one road must have the minimum frontage on **any road** **the side** from which the lot will be accessed. (See Figure 2-01).
- d. **New Lots.** All new lots created under these regulations must have the minimum frontage on a maintained public (state highway, or Class 1, 2 or 3 town highway) or private road unless the Development Review Board:
 - i. *Approves a lot with less frontage as part of a planned unit development under*

Subchapter Section 340;

- ii. Approves a waiver under Section 4404 to reduce the frontage requirement to not less than ~~20~~ **35** feet for irregularly shaped lots when necessary to accommodate topography, streams or other site features;
- iii. Approves a waiver under Section 4404 to reduce or eliminate the frontage requirement for lots accessed by a shared driveway with a permanent easement or right-of-way (also see Section 3002 and 3008); or
- iv. Approves a waiver under Section 4404 to reduce or eliminate the frontage requirement for lots restricted to farming, forestry or open spaces uses through a legally enforceable and permanent means such as a ~~v-~~conservation easement.
- v. Approves access from a class 4 road that is upgraded to a driveway (see section xxx) or a private road as appropriate.

i. **Measuring Lot Frontage**



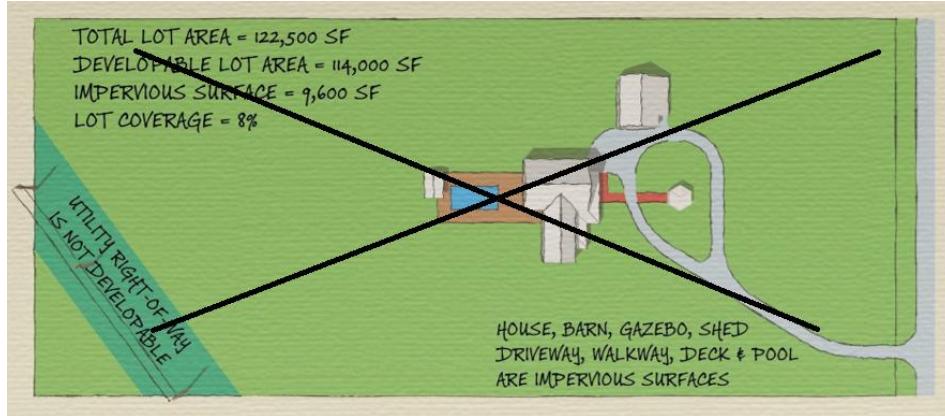
Lot Coverage. The total footprint of **impervious surface structures** on a lot must not exceed the maximum lot coverage established for the applicable zoning district. Lot coverage will be calculated based on:

- a) The total footprint of **impervious surface** on the lot. Impervious surface will be considered all the surfaces and structures on the lot that do not permit water to infiltrate into the ground below (ex. building footprints, driveways, parking areas, walkways, other hard surfaced areas, patios, decks, pools, etc.) This includes structures that do not require a zoning permit under Section 1101 that are specifically required to meet lot coverage requirements. It does not include farm structures that are exempted under Section 1103. Pervious paving will be included in the calculation of **impervious surface** unless otherwise established through site plan review and conditioned upon the applicant submitting and implementing an appropriate maintenance plan for the paving material (see Paragraph 3024.G(4)).
- b) The total developable area of the lot. Developable area will exclude any land within a road right of way or land that has had its development rights removed through a legally binding means (ex. utility easement, flowage easement, conservation easement, etc.).

Commented [WG11]: Less confusing to separate lot coverage and impervious coverage.

i.

Calculating Lot Coverage



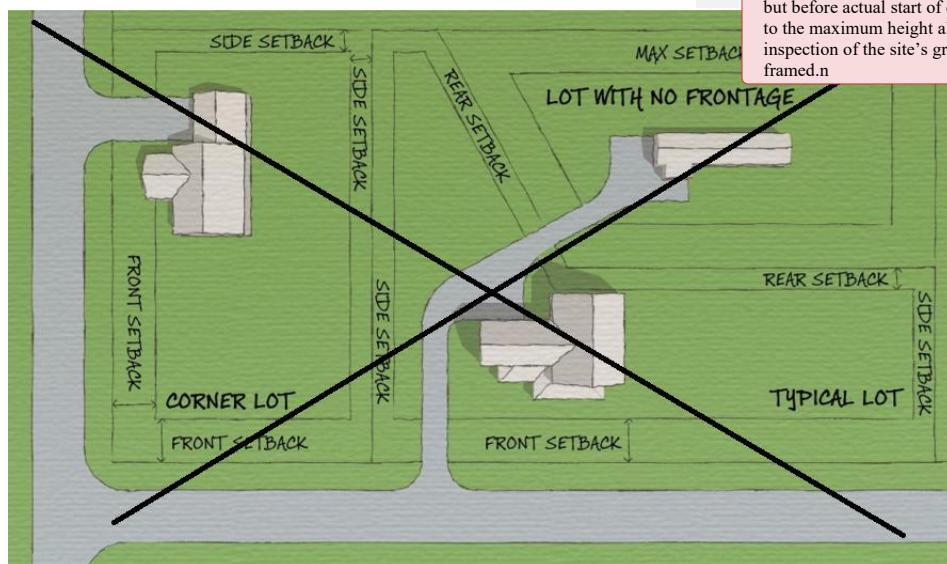
Setbacks. Development must meet applicable setback requirements for the district as follows:

- a) **Corner and Through Lots.** Lots with frontage on more than one road must meet front setback requirements **on each road, on the side with the highway access** and must meet side setback requirements on the remaining sides. (See Figure 2-03).
- b) **Interior Lots.** Lots with no frontage must meet the **greatest setback (front, side or rear)** for the applicable district on all sides. (See Figure 2-03).
- c) **Lots in Common Ownership.** Side and rear setback requirements will apply irrespective of whether the same landowner owns the adjoining lot.
- d) **Front Setbacks.** Front setback requirements will be measured horizontally from the **edge of the road right of way** **middle of the road** to the closest point of the structure **excluding entry steps or ramps**. If the location of the edge of the road right of way is uncertain, it will be assumed to be 25 feet from the centerline of the road. If the road is known to have a right of way width other than 50 feet or 3 rods, the front setback will be assumed to be one half the known right of way width from the centerline of the road. (See Figure 2-03). On state highways applicants should consult with the Zoning Administrator and V-Trans about the width of the right of way.
- e) **Maximum Front Setbacks.** Maximum front setback requirements will apply to any new principal buildings proposed on a lot. If a lot will be developed with two or more principal buildings, the maximum front setback will only apply to one building.
- f) **Side and Rear Setbacks.** Side and rear setbacks will be measured **horizontally** along a line that runs perpendicular to the property line to the closest point of the structure. (See Figure 2-03).
- g) **Stream and Shoreline Setbacks.** For measuring stream and shoreline setbacks see Section 3020.

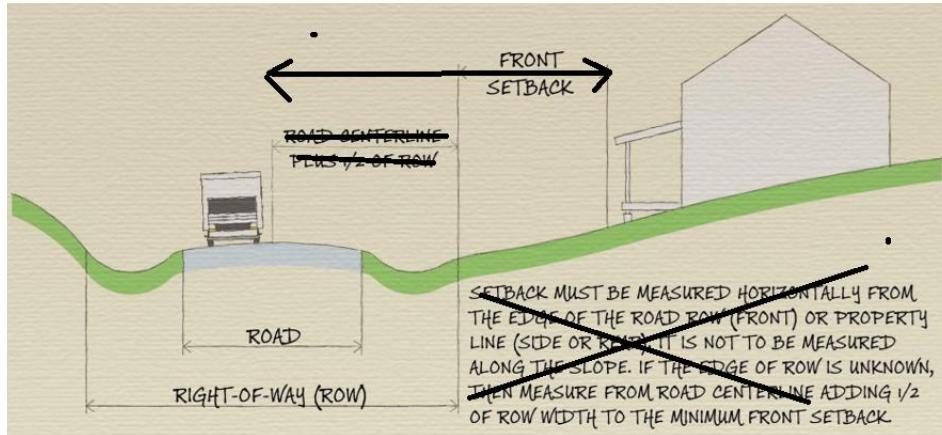
Commented [WG12]: Less Confusing to measure from the middle of the road.

- h) **Closest Point of the Structure.** The closest point of the structure will be interpreted to include any porch, deck, **patio**, balcony, portico, roof overhang **of more than 2 feet**, carport, garage, canopy or other structural or architectural element that is an attached component of the structure. Ramps and uncovered entry stairs are not subject to setback requirements.
- i) **Waiver or Variance.** The Development Review Board may grant a waiver or variance to reduce setback requirements in accordance with Section 4404 or Section 4405.

ii. Measuring Setbacks



Commented [WG13]: 1. Development that is Close to A Boundary. If development is proposed that is very close to a boundary, the ZA can require that the owner call for an inspection once the site has been staked out or demarcated but before actual start of construction. If a structure is close to the maximum height allowed, the ZA can require an inspection of the site's grade before the structure is framed.



Height. Development must meet applicable height requirements for the district as follows:

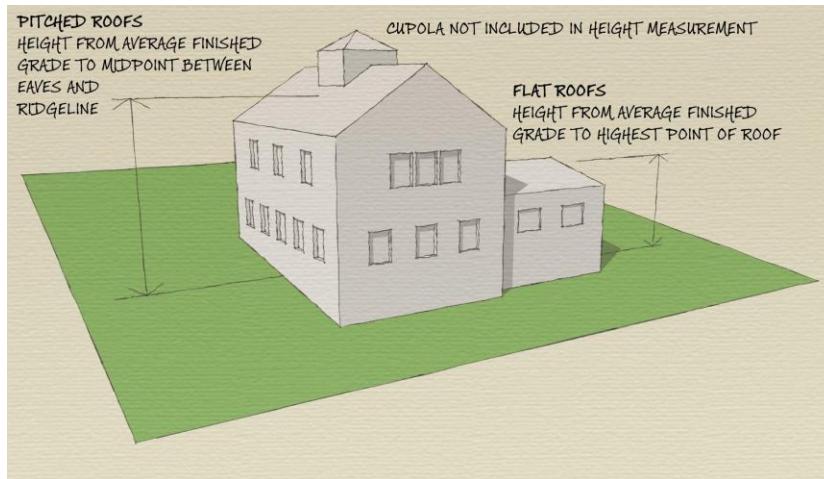
- d. **Exemptions.** Height limits do not apply to:
 - i. Architectural features such as belfries, spires, steeples, cupolas, domes or similar features not used for human habitation; and
 - ii. Mechanical or utilitarian features such as skylights, parapet walls, cornices, chimneys, ventilators, bulkheads or equipment typically located on a roof, provided that such features are limited to the height necessary for their proper functioning.
For rules on height exemptions for communication towers see section 3223, renewable energy projects see section 4405
- e. **Measurement.** Height will be measured:
 - i. From the average finished grade at ground level (midway between the highest and lowest point of the finished surface of the ground measured around the perimeter of the structure) to the midpoint between the eaves and the ridgeline excluding the building elements listed in Paragraph (1) for buildings with a primary roof pitch of 5:12 or steeper; or
 - ii. From the average finished grade at ground level to the highest portion of the structure excluding the building elements listed in Paragraph (1) above for all other structures. (See Figure 2-04).
- f. **Minimum Height.** Where a minimum building height is specified, that height must be maintained along the entire facade for a depth of at least 30 feet or the depth of the building, whichever is less (See Figure 2-04). The minimum height requirement will not apply to porches, covered entryways or similar architectural projections.
- g. **Accessory structures** must not exceed a height of 24 feet unless otherwise specified in these regulations. Height limits do apply to flag poles, light poles, signs and similar freestanding structures not located within public rights of way.
- h. **Waiver.** The Development Review Board may grant a waiver in accordance with Section 4404 allowing:

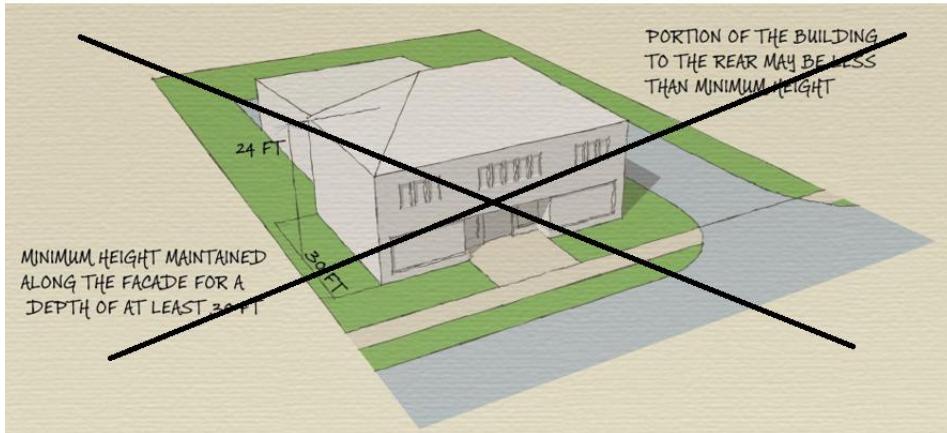
- Commercial or industrial structures *such as communication antennas to which exceed the maximum height standard upon the applicant demonstrating appropriate fire chief finds that the additional height is the minimum necessary to accommodate the proposed activity and will not pose a risk to public safety including, but not limited to, consideration of setbacks; and*
- Tree houses *or other structures that are not built at ground level and that are not used as a dwelling unit or for lodging to exceed the maximum height standard upon the applicant demonstrating that the additional height will not pose a risk to public safety including, but not limited to, consideration of setbacks and that the structure will not be visible from public vantage points beyond the property line.*

○ **Notification.** The Administrative Officer must notify the Fire Department in writing of any application for a height waiver or structure that will exceed the maximum height for the zoning district.

Building Footprint. Building footprint will be measured as the area encompassed by the building's outer walls at ground level.

i. **Measuring Structure Height**





ii. Density Standards

*There is no maximum density established in Londonderry's zoning districts. The intensity of development on a lot is controlled solely by lot coverage, **maximum height restrictions**, and the standards of these regulations with regard to minimum dwelling unit size, maximum building footprint and height, minimum parking and access requirements, etc.*

2100. Base Zoning Districts

2200 Overlay Zoning Districts

2201 Flood Hazard Overlay District (FHO)

Purpose. The Flood Hazard Overlay District is intended to:

- a. ~~Minimize and prevent 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;~~
- b. ~~Ensure that the selection, design, creation, and use of development in this overlay district is reasonably safe and is accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding;~~
- c. ~~Manage special flood hazard areas in accordance with state and federal law;~~
- d. ~~Make the Town of Londonderry, its landowners, residents and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available;~~
- e. ~~Allow for the wise use of floodplain lands in a way that minimizes potential damage to existing structures and development located within this overlay district;~~
- f. ~~Provide an adequate means of protecting the beneficial functions of undeveloped floodplains and development that is already located within floodplains;~~
- g. ~~Avoid encroachments that may result in cumulative degradation of natural floodplain function leading to increased flood elevations, velocities, and river instability;~~
- h. ~~Protect infill and redevelopment from inundation hazards; and~~
- i. ~~Discourage new encroachments on undeveloped property that provides for floodwater and sediment storage.~~

Precedence. The provisions of this section will take precedence where they impose a greater restriction than another provision of these regulations. Where there is a conflict between the provisions of this section, the most restrictive provision will apply.

Warning. The provisions of this section do not imply that lands outside of this overlay district will be free from flooding.

District Boundaries. The provisions of this section apply to all flood hazard areas identified on the most current flood insurance studies and maps published by the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), which are adopted by reference into these regulations. The flood hazard area consists of the floodway and flood fringe (commonly referred to as the 100 year floodplain). Applicants may provide a FEMA Letter of Map Amendment (LOMA).

Commented [WG14]: Flood zone bylaws completely changed due to changes in state reg.s

~~or Letter of Map Revision (LOMR), which will constitute proof of the location of the flood hazard area boundary. A Letter of Map Revision based on Fill (LOMR F) issued after April 1, 1991 may not be used to remove lands from the jurisdiction of this section.~~

~~Applicability. A landowner must obtain a zoning permit for all development (as defined in Paragraph 2201.T(6)) located within this overlay district that is not exempted in Subsection 2201.H. The Administrative Officer must condition all permits for development within this overlay district on the applicant obtaining all necessary state and federal permits prior to the start of construction.~~

~~Application Requirements. In addition to all other requirements of these regulations, an application for development within this overlay district must include:~~

- ~~a) A Project Review Sheet completed by a Vermont Agency of Natural Resources Permit Specialist;~~
- ~~b) A Base flood elevation (BFE) is required for an application which involves:
 - ~~i. Replacement, substantially improved or substantially damaged structures;~~
 - ~~ii. Projects requiring elevation or dry floodproofing above BFE; and~~
 - ~~iii. Additions to existing historic structures.~~
 - ~~iv. A new building to be placed in the same footprint as the pre-existing building~~~~
- ~~c) Floodway data with electronic input/output files and mapping showing cross section locations certified by a registered professional engineer for development within the floodway that includes:
 - ~~i. Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the floodway; and~~
 - ~~ii. A floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than 1 foot at any point within the Town of Londonderry if FEMA has provided BFE data but not designated floodway areas.~~~~
- ~~d) A No Adverse Impact (NAI) volumetric analysis and supporting data certified by a registered professional engineer for development that requires compensatory flood storage under Paragraph 2201.M(1).~~

~~Referrals. The Administrative Officer must send a copy of all complete applications for development within this overlay district to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources. The Administrative Officer must not act on an application for development within this overlay district until the agency comments or the 30 day comment period elapses, whichever occurs first.~~

~~Exempt Development. The following development is exempt from the provisions of this section (a zoning permit or development approval may still be required under other provisions of these regulations):~~

- ~~a. Agricultural and silvicultural practices exempted under Section 1102;~~

- b. ~~Normal maintenance and repair of existing development;~~
- c. ~~Demolition of a structure or portion of a structure provided that there is no change in elevation under or adjacent to the removed structure or portion of a structure (for damaged structures where owners may be using FEMA mitigation funds, FEMA may require a damaged structure to remain in place until funds are granted);~~
- d. ~~Improvements to existing buildings (interior or exterior) that cost less than \$500; 1/2 the assessed value of the house;~~
- e. ~~Subdivision of land;~~
- f. ~~Public water access and recreational trails that do not require active management or alteration of the river or stream;~~
- g. ~~Planting projects to restore natural and beneficial floodplain functions that do not involve grading or construction of structures;~~
- h. ~~Development subject to a Stream Alteration Permit from the Vermont Agency of Natural Resources;~~
- i. ~~Development subject to a Certificate of Public Good from the Vermont Public Utilities Commission; and~~
- j. ~~State owned and operated facilities or institutions;~~
- k. ~~The installation of septic systems which have received a Vt ANR septic permit.~~

Prohibited Development. The following development is prohibited within this overlay district:

- a) ~~Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) for new, replacement or substantially improved structures, or for structures that have incurred substantial damage;~~
- b) ~~Outdoor storage of goods, materials, equipment or vehicles;~~
- c) ~~New critical facilities;~~
- d) ~~New encroachments outside the Village Business and Mixed Use districts, except for:
 - i. ~~Changes to existing structures where the footprint is proposed to expand less than 500 square feet within this district;~~
 - ii. ~~New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects; and~~
 - iii. ~~New encroachments required to meet health, safety and accessibility standards under federal or state codes or regulations if no other practicable alternative is available.~~
 - iv. ~~Small additions within the conveyance shadow if approved by Vt ANR.~~~~
- e) ~~Expansion of existing structures within the floodway where the footprint of the structure is proposed to expand laterally into the floodway more than 500 square feet; and~~
- f) ~~Any development within Zones AE and A1-A30 where FEMA has not determined floodway limits~~

~~unless the applicant demonstrates that the cumulative impact of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1 foot at any point within the town by submitting technical data that conforms to standard hydraulic engineering principles prepared and certified by a qualified engineer.~~

Pre-Existing Structures. Within this overlay district, a landowner may only:

- a) ~~Reconstruct a substantially damaged or destroyed structure in its original location if it is rebuilt to comply with all requirements of the National Flood Insurance Program and this section; or~~
- b) ~~Re-occupy a structure that has been unused or uninhabited for more than 12 months if it is brought into compliance with all requirements of the National Flood Insurance Program and this section.~~

Allowed Uses. Except as prohibited in Subsection 2201.H, the uses allowed in the underlying district are allowed to the same extent within this overlay district provided that the applicant demonstrates compliance with Subsection 2201.L or Subsection 2201.M as applicable.

Floodway Standards. Within the floodway:

- g) ~~New encroachments are prohibited except for the following, which must meet the requirements of Paragraph (2) below:~~
 - i. ~~Changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;~~
 - ii. ~~New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects; and~~
 - iii. ~~New encroachments required to meet health, safety and accessibility standards under federal or state codes or regulations if no other practicable alternative is available.~~
- h) ~~For new encroachments or development allowed under Paragraph (1) above that will result in a change of grade, applicants must provide either a:~~
 - i. ~~FEMA Conditional Letter of Map Revision (CLOMP) to demonstrate that the proposed development will not have an adverse impact; or~~
 - ii. ~~Hydraulic analysis performed by a registered professional engineer in accordance with standard engineering practice certifying that the proposed development will:~~
 - 1. ~~Not result in any increase in flood levels during the occurrence of the base flood;~~
 - 2. ~~Not increase base flood velocities; and~~
 - 3. ~~Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.~~

i) The applicant must demonstrate that any new encroachments or development allowed under Paragraph (1) above have been designed in accordance with the standards of Subsection 2201.M but not including the requirement for compensatory flood storage.

Flood Fringe Standards. Within the flood fringe:

j) **Compensatory Flood Storage.** Development that displaces floodwater storage must provide compensatory storage in accordance with the following unless exempted in Paragraph (e) below:

i. Applicants must provide either:

- 1.** Volumetric analyses and supporting data prepared and certified by a qualified engineer, or
- 2.** A hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters prepared and certified by a qualified engineer.

ii. Applicants must provide a statement from a qualified engineer certifying that the compensatory flood storage design will not materially impact adjacent properties by increasing base flood elevations or velocities.

iii. Upon the applicant obtaining a written statement of concurrence from the Vermont Agency of Natural Resources Regional Floodplain Manager, the Administrative Officer or Development Review Board may waive the compensatory flood storage requirement for:

- 1.** Designs that have no more than a minimal effect on floodwater storage and will not divert floodwaters onto adjacent property;
- 2.** Remediation of brownfield sites provided the applicant submits a hydraulic analysis that demonstrates that the remediation will not increase flood elevations and velocities on floodwaters prepared and certified by a qualified engineer;
- 3.** A replacement structure provided there is no increase in the structure's footprint or an open foundation design is used; and
- 4.** Roads, driveways, utilities and replacement on-site septic systems upon the applicant demonstrating that the placement of fill cannot be mitigated.

l) **General Standards.** Applicants must demonstrate that the proposed development will be:

i. Reasonably safe from flooding;

ii. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;

iii. Constructed with materials resistant to flood damage;

iv. Constructed by methods and practices that minimize flood damage;

v. 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; and

vi. Adequately drained to reduce exposure to flood hazards.

i) Structural Standards. Applicants must demonstrate that:

- i. Residential. New residential structures, existing residential structures to be substantially improved or replaced, or that have incurred substantial damage will be located such that the lowest floor is at least 2 feet above base flood elevation (BFE) as documented in the proposed and as built condition with a FEMA Elevation Certificate.*
- ii. Non-Residential. New non residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage will:*
 - 1. Meet the standards of Subparagraph (a) above, or*
 - 2. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that 2 feet above the BFE the structure is dry floodproofed in accordance with accepted standards of practice for meeting NFIP requirements as certified by a registered professional engineer or architect.*
- iii. In Zone AO. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO will have the lowest floor, including basement, elevated above the highest adjacent grade, at least 2 feet above the depth number specified on the town's FIRM, or at least 3 feet if no depth number is specified.*
- iv. Critical Facilities. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage will:*
 - 1. Be constructed so that the lowest floor, including basement, will be elevated or dry-floodproofed at least 1 foot above the elevation of the 0.2% annual flood height (500-year floodplain), or 3 feet above BFE, whichever is higher; and*
 - 2. Have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles, and the top of the access road will be no lower than 6 inches below the elevation of the 0.2% annual chance flood event.*
- v. Historic Structures. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building will meet the following mitigation performance standards for areas below the base flood elevation:*
 - 1. Any future damage to enclosures below the lowest floor must not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures;*
 - 2. Utility connections (e.g. electricity, water, sewer, natural gas) must be protected from inundation and scour or be easily repaired;*
 - 3. The building foundation must be structurally sound and reinforced to withstand a base flood event;*
 - 4. The structure's historic designation must not be precluded;*
 - 5. The likelihood of flood waters entering the structure during the base flood must be reduced; and*
 - 6. There must be no expansion of uses below BFE except for parking, storage, building*

~~access, or, in the case of non-residential buildings, where the space is dry floodproofed.~~

~~vi. Enclosed Areas Below BFE. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, will:~~

- ~~1. Be solely used for parking of vehicles, storage, or building access, and such a condition will clearly be stated on any permits;~~
- ~~2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters in accordance with accepted standards of practice for meeting NFIP requirements as certified by a registered professional engineer or architect; and~~
- ~~3. Include a signed agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed in Subparagraph (i) above and that the Administrative Officer will be allowed to inspect the exterior and interior of the enclosed area as necessary to ensure compliance.~~

~~iii) Small Accessory Structures. Applicants will not be required to elevate an accessory structure with a footprint of 500 square feet or less to the base flood elevation provided that the applicant locates the structure on the building site so as to offer the minimum resistance to the flow of floodwaters and as long as the structure meets the criteria in Subparagraph 2201.M(3)(f). (enclosed areas below BFE)~~

~~iv) Fuel Storage Tanks. Applicants must demonstrate that fuel storage tanks will be:~~

- ~~i. Securely anchored to prevent flotation;~~
- ~~ii. Located on the landward or downstream side of the building whenever possible;~~
- ~~iii. Only placed on a structure or platform that is designed to withstand anticipated flood loads and forces; and~~
- ~~iv. Elevated so that all inlets, fill openings, line connections and vents will be elevated at least 2 feet above BFE. If elevating the tank is not possible due to the location of the fuel line or hook up serving an existing building:~~

- ~~1. The tank vent pipe/valve must be located at least 2 feet above BFE; or~~
- ~~2. The tank may be located underground provided it will be securely anchored and protected from flood forces as certified by a qualified professional.~~

~~o) Utilities and Service Facilities. For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, applicants must demonstrate that outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems) will be located on the landward or downstream side of the building and/or behind structural elements whenever possible, and will be located and constructed to minimize or eliminate flood damage.~~

~~p) Water and Wastewater Facilities. Water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system. Sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

- ④ **Temporary Structures and Vehicles.** ~~Temporary structures and vehicles must either:~~
 - i. ~~Be currently registered, licensed and ready for highway use, if a motor vehicle or trailer;~~
 - ii. ~~Be located within this overlay district for less than 180 consecutive days; or~~
 - iii. ~~Conform to all applicable provisions of this section for permanent structures.~~
- ⑤ **Subdivisions and Planned Unit Developments (PUDs).** ~~Applicants must design any subdivision or PUD that includes land within this overlay district so that all lots have a building envelope located outside the flood hazard area and so that all lots will be accessible over land located outside the flood hazard area.~~

Variances. ~~The Development Review Board may grant variances within this overlay district as established in Section 1105. Any variance granted for development within the flood hazard area must include the following statement, "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 in coverage."~~

Substantial Improvement and Substantial Damage Determinations. ~~The Administrative Officer will make a determination of substantial improvement or substantial damage in accordance with current FEMA guidelines, which will establish the appropriate standards for repair and rebuilding under this section. The applicant may provide additional documentation including, but not limited to:~~

- ④ A recent building appraisal completed by a qualified professional that documents the structure's market value, excluding land value, prior to the damage or improvement;
- ④ A cost estimate provided by a qualified professional that includes material and labor costs and a detailed accounting of the proposed project; or
- ④ In the case of substantial damage, an estimate of structure damage prepared by a state or local official using FEMA's Substantial Damage Estimator software.

Certificate of zoning compliance. ~~The applicant must obtain a Certificate of zoning compliance for all development subject to the provisions of this overlay district in accordance with the provisions of Section 4206. The Administrative Officer must not issue a Certificate of zoning compliance for development within this overlay district until the applicant has submitted all required as built documentation.~~

Administrative Records. ~~In addition to all other applicable requirements of these regulations, the Administrative Officer must file and maintain a record of:~~

- ④ ~~FEMA Elevation Certificates with the as built elevation of the lowest floor, including basement, of all new, replacement, substantially improved, substantially damaged or flood proofed principal buildings; and~~
- ④ ~~All floodproofing and other certifications required under this section.~~

Violations. *In addition to all other applicable provisions of these regulations, the Administrative Officer must:*

- a) ~~Send a copy of any notice of violation issued for development within this overlay district to the State National Flood Insurance Program Coordinator; and~~
- b) ~~Submit a declaration of any unresolved violation to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property in accordance with federal law.~~

Appeals. *The applicant or other interested person may appeal any action or decision taken under this section in accordance with the provisions of Section 1402 or Section 1403 as applicable.*

Definitions. *The definitions below apply to terms used within this section. Any term not defined below will be as defined in Chapter 5.*

- a. **Base Flood** means the flood having a 1% chance of being equaled or exceeded in any given year (commonly referred to as the “100 year flood”).
- b. **Base Flood Elevation (BFE)** means the elevation of the water surface elevation resulting from the base flood. On the Flood Insurance Rate Maps, 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 average depth of the base flood, usually in feet, above the ground surface.
- c. **Basement** means any area of the building having its floor elevation sub grade (below ground level) on all sides.
- d. **Compensatory Storage** means a volume not previously used for flood storage that must be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, that would be displaced by the proposed project. Such compensatory volume must:
 - i. *Have an unrestricted hydraulic connection to the same waterway or water body; and*
 - ii. *Be provided within the same reach of the river, stream, or creek.*
- e. **Critical Facilities** mean facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.
- f. **Development** means 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.
- g. **Encroachment** means activities or construction including fill, substantial improvements, structures and other development that may cause an increase in flood levels.
- h. **Fill** means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.
- i. **Flood** means

- i. *A general and temporary condition of partial or complete inundation of normally dry land areas from:*
 - 1. The overflow of inland or tidal waters;
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source, and
 - 3. 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; or
- ii. *The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining:*
 - 1. Caused by waves or currents of water exceeding anticipated cyclical levels, or
 - 2. 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.
- j. **Flood Fringe** means the portion of the flood hazard area that is outside of the floodway but still inundated by the base flood (the flood having a 1% chance of being equaled or exceeded in any given year).
- k. **Flood Hazard** means those hazards related to damage from flood related inundation or erosion.
- l. **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. The hazard boundaries are available in paper, PDF, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).
- m. **Flood Insurance Study (FIS)** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.
- n. **Floodplain or Flood Prone Area** means any land area susceptible to being inundated by water from any source (see definition of "flood").
- o. **Floodproofing** means any combination of structural and non structural 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.
- p. **Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that flood hazard areas and floodways may be shown on a separate map panels.

g) Grading means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material will be considered "fill" and will not be considered grading.

Historic Structure means 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 the Vermont State Register of Historic Places; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- e) By an approved state program as determined by the Secretary of the Interior; or
- f) Directly by the Secretary of the Interior in states without approved programs.

g) Letter of Map Change (LOMC) means a letter issued by FEMA officially removing a structure or lot from the flood hazard area based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).

h) Lowest Floor means the lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

i) National Flood Insurance Program means the National Flood Insurance Program under 42 U.S.C. Chapter 50 and implementing federal regulations in 44 C.F.R. Parts 59 and 60. The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to landowners in communities that adopt and enforce floodplain management regulations. These efforts help mitigate the effects of flooding on new and improved structures.

j) Natural and Beneficial Floodplain Functions mean the functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and groundwater recharge.

- k) New Construction** means structures for which the “start of construction” commenced on or after April 1, 1992 and includes any subsequent improvements to such structures.
- l) Person** means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.
- m) Public Water Access** means a public access to a water of the state and, except for toilet facilities, will not include structures as defined in this section.
- n) Redevelopment** means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously developed area. The term includes substantial improvements and repairs to substantially damaged buildings.
- o) Replacement Structure** means a new building placed in the same footprint as the pre-existing building and does not include a change in use.
- p) Special Flood Hazard Area** means the land in the floodplain subject to a 1% or greater chance of flooding in any given year. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current FIS and on the FIRM. Maps of this area are available for viewing in the town office or online from the FEMA Map Service Center (msc.fema.gov). FEMA has not determined base flood elevations 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. Where floodways have been determined they may be shown on separate map panels from the FIRM.
- q) Start of Construction** means the date the town issued a permit authorizing development, 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 any of the following:
 - r) *The first placement of permanent construction of a structure on a site, which includes the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, but does not include:***
 - s) Land preparation, such as clearing, grading and filling**
 - t) Installation of streets and/or walkways;**
 - u) Excavation for a basement, footing, piers, or foundations or the erection of temporary forms;**
 - v) Installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.**
 - w) *The placement of a manufactured home on a foundation.***
 - x) *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.***
- y) Storage** means the aggregation of materials, items, or objects whether natural or human-made.
- z) That is kept as a stockpile, collection, or inventory;**
- aa) *Where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose;***

- bb) Whether set upon the land or within a container, structure, or facility; and*
- cc) That would not otherwise comply with the provisions of this section.*
- dd) Structure means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.*
- ee) Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.*
- ff) Substantial Improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after April 1, 1992, the cost of which over 3 years, or over the period of a common plan of development, cumulatively equals or exceeds 50% 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:*
- gg) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been previously identified by the code enforcement official and which are the minimum necessary to assure safe living conditions or*
- hh) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."*

ii) Violation means the failure of a structure or other development to be fully compliant with the provisions of this section. 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.

2203. Aquifer Protection Overlay District (APO)

Purpose. The Aquifer Protection Overlay District is intended to protect public health and safety by preventing contamination, promoting recharge and maintaining the supply of public drinking water sources.

Protection Areas. The Aquifer Protection Overlay District includes ~~the following zones of all mapped source protection areas (SPAs)~~ within the Town of Londonderry as mapped by the Vermont Agency of Natural Resources Department of Environmental Conservation;

- a) ~~Zone A.~~ Zone A, the Drinking Water Critical Impact Zone, is the area within Zones 1 and 2.
- b) ~~Zone B.~~ Zone B, the Drinking Water Potential Impact Zone, is the area within Zone 3.

Use Standards. The uses allowed within this overlay district will be as allowed in the underlying zoning district except that Town of Londonderry prohibits the following uses within Zone A, but may allow them as a conditional use within Zone B if allowed in the underlying zoning district:

- a) Funeral services or cemetery
- b) Dry cleaner
- c) Golf course
- d) Stormwater management facility
- e) Highway maintenance facility
- f) Contractor's yard
- g) Vehicle or equipment maintenance or fueling facility
- h) Machine shop or light industry
- i) Extracting, quarrying or stone cutting
- j) Salvage yard, landfill or waste management facility
- k) Composting facility
- l) Underground storage tanks
- m) Injection wells, dry wells, sumps or floor drains
- n) Bulk storage of flammable, combustible, toxic or hazardous materials (including for on-site use)
- o) Extraction or use of more than 10,000 gallons of water per day for purposes other than supplying the water system associated with the protection area

Performance Standards. Applicants must:

- a. Locate proposed development outside the overlay district to the maximum extent feasible if the subject lot includes land outside the overlay district.

- b. Adhere to applicable federal and state standards for the storage, handling, use and disposal of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment.
- c. Design any above-ground facility (including open lagoons or ponds) involving the collection, handling, production, manufacture, use, storage, transfer or disposal of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment with a secondary containment system that:
 - *Is designed to intercept any leak or spill from the primary containment vessel or structure;*
 - *Is provided with an overflow recovery catchment area (sump).*
 - *Is easily inspected; and*
 - *Capable of containing 110% of the largest volume of storage (a larger volume of storage may be necessary if precipitation will be able to collect in the secondary containment system).*
- d. Design any below-ground facility (including storage tanks and pipes) containing or carrying of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment with:
 - *Double walls and inspectable sumps; and*
 - *A monitoring system and secondary standpipe for monitoring and recovery.*
- e. Maintain an up-to-date contingency plan for preventing contamination of the drinking water supply in the event of floods, fires, other natural catastrophes, equipment failure or other releases if use involves the collection, handling, production, manufacture, use, storage, transfer or disposal of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment will
- f. Report all releases of materials or wastes that have the potential to contaminate the drinking water supply to the Town of Londonderry and the Vermont Agency of Natural Resources.

Referral. *The Administrative Officer must send a copy of all complete applications for development within this overlay district to the water system operator and the Vermont Agency of Natural Resources Drinking Water and Groundwater Protection Division. The Administrative Officer must not act on an application for development within this overlay district until the agency comments or the 30-day comment period elapses, whichever occurs first.*

2203 CONSERVATION OVERLAY DISTRICT (CO)

2203.A Purpose. The Conservation Overlay District includes land generally unsuitable or unavailable for development due to natural hazards and constraints, land above 1,800 feet in elevation, and land not readily accessible from maintained public roads. It is the intent of this district to:

- (1) Protect the town's rural character and environmental quality by guiding development away from land that has significant natural resource constraints, and

Commented [WG15]: We put back the old CO rules instead of the 50 acre district in the SOP draft.

- (2) Minimize forest fragmentation and clearing; and
- (3) Protect significant wildlife habitat and rare, threatened or endangered species
- (4) Preserve the natural beauty of highly visible hillsides and ridgelines.

2203. B Precedence. The provisions of this section will take precedence where they impose a greater restriction than another provision of these regulations. Where there is a conflict between the provisions of this section, the most restrictive provision will apply.

2203. D District Boundaries The boundaries of this overlay district are shown on the zoning map located in the Londonderry Town Offices, 100 Old School Rd, South Londonderry, VT 05155, and on the Londonderry Town Website.

2203. E Applicability A landowner must apply for site plan review for all development as defined within the bylaw and this overlay district. Any Development in these areas requiring major site plan review must be reviewed carefully by the Conservation Commission and the Development Review Board to encourage development that recognizes sensitive environmental and aesthetic considerations.. The Administrative Officer must condition all permits for development within this overlay district on the applicant obtaining all necessary state and federal permits before the start of construction.

2203. F Application Requirements: In addition to all other requirements of these regulations, Applicants are to submit a narrative describing any steep terrain (see section xxxx) priority forest blocks, significant wildlife habitat and any rare, threatened or endangered species on the property. Applicants may rely on the information available from the VT natural Resource atlas or may provide field assessment and/or delineations provided by a qualified professional.

2203. G Exempt Development: The following development is exempt from the provisions of this section (a zoning permit or development approval may still be required under other provisions of these regulations):

- (1) Agricultural and silvicultural practices exempted under Section 1103;
- (2) Normal maintenance and repair of existing development;
- (3) Demolition of a structure or portion of a structure provided that there is no change in elevation under or adjacent to the removed structure or portion of a structure;
- (5) Subdivision of land;
- (6) Public access and recreational trails that do not require active management or alteration of the existing or natural environment
- (7) Planting projects to restore natural and beneficial functions that do not involve grading or construction of structures;
- (9) Development subject to a Certificate of Public Good from the Vermont Public Utilities Commission; and
- (10) State-owned and operated facilities or institutions.

Shoreland (S) District The purpose of the Shoreland Districts is to maintain the scenic, ecological and recreation resources associated with Lowell Lake, Lily Pond and Gale Meadow Pond; preserve water quality and protect wildlife habitat; and preserve shore cover natural vegetation through the careful siting of the location, design and intensity of residential development and associated activities.

A landowner must apply for site plan review for all development as defined within the bylaw and this overlay district. Any Development in these areas requiring major site plan review must be reviewed carefully by the Conservation Commission and the Development Review Board to ensure that any development recognizes sensitive environmental and aesthetic considerations. The Administrative Officer must condition all permits for development within this overlay district on the applicant obtaining all necessary state and federal permits before the start of construction. In the shoreland district all development must be reviewed by the Conservation commission and must meet special dimensional standards and the requirements in section xxxx riparian buffers

2203. F Application Requirements: In addition to all other requirements of these regulations, Applicants are to submit a narrative describing any priority forest blocks, significant wildlife habitat and any rare, threatened or endangered species on the property. Applicants may rely on the information available from the VT natural Resource atlas or may provide field assessment and/or delineations provided by a qualified professional.

2203. G Exempt Development: The following development is exempt from the provisions of this section (a zoning permit or development approval may still be required under other provisions of these regulations):

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- (5) Subdivision of land;
- (6) Public access and recreational trails that do not require active management or alteration of the existing or natural environment
- (7) Planting projects to restore natural and beneficial functions that do not involve grading or construction of structures;
- (9) Development subject to a Certificate of Public Good from the Vermont Public Utilities Commission; and
- (10) State-owned and operated facilities or institutions.

2. Zoning Districts

3. Development Standards

3000. General

3001. Applicability

The standards of this ~~Subchapter~~ Section apply to all land development unless specifically stated otherwise in these regulations.

3002. Access

Applicability. Land proposed for development and lots being created through subdivision must have vehicular access from a maintained public (state highway and town class 1, 2, or 3 highway) or private road in accordance with the provisions of this section except:

- c) For an existing lot without the minimum frontage on a maintained public or private road required in the applicable zoning district, see Subsection 1303.D.
- d) For a proposed lot to be served by a shared driveway, see the Subsection xxxx.
- e) For access by class 4 road see section xxxxx below

Class 4 Roads and Other Unimproved Rights-of-Way

- f) A Class 4 town road or other unimproved right-of-way is not a maintained road and cannot be used to meet the access requirements of these regulations
- g) No provision of these regulations will be interpreted to require the Town of Londonderry to ~~construct a road~~, maintain a Class 4 town road or other unimproved right-of way, or to upgrade a Class 4 town road or other unimproved right-of-way ~~to a Class 3 town road~~ so that it may serve to provide access to adjoining property.
- h) Applicants ~~may seek approval from the Selectboard to construct a road, upgrade a Class 4 town road or other unimproved right-of-way to meet state standard b-71 if serving as access for three or fewer houses, or to Class 3 town road standards for 4 or more houses. Upgrades will be at at their the applicants expense and in accordance with town policies and standards so that it may serve to provide access to proposed development. Applicants upgrading a shared class 4 road should consider entering into a private road maintenance agreement with their neighbors. When there is no such agreement any resident on such a road has the right under state law to bring a civil action to require a person who benefits from a private road to contribute to the cost of maintaining the private road.~~

i)

Commented [WG16]: Allows flexibility for one house on a class 4 road.

The provisions of this subsection will not be interpreted to prevent a property owner with a previously developed lot accessed from a Class 4 town road from obtaining a zoning permit provided that the proposed development will not generate more traffic (ex., a residential addition or accessory structure would be allowed without upgrading the access but building another residence on the property would not be allowed unless the access was upgraded).

Access Permit. *An applicant for development to be served by a new or modified access on a town road or state highway must provide the Administrative Officer with a copy of an access permit or letter of intent from the town or state as applicable before the Administrative Officer may issue a zoning permit. If the proposed development requires site plan review, the applicant must provide a copy of the letter of intent as part of a complete application.*

Public Works Specifications. *If there is a conflict between a provision of this section and any Public Works Specifications duly adopted by the town (or in the case of a state highway, a VTrans Standard), the provision of the town Public Works Specifications (or VTrans Standard) will take precedence.*

Standards. *New and modified access onto a road must conform to the following:*

Number. A lot must not be served by more than one access unless the Development Review Board approves a waiver in accordance with the standards below. If the proposed development requires site plan review and includes modifying or resurfacing an access, the applicant must eliminate any additional accesses unless the Development Review Board approves a waiver in accordance with the standards below. The Development Review Board may only approve a waiver allowing more than one access on a lot upon the applicant demonstrating that the additional access is necessary to:

- i. *Accommodate unique physical conditions on the property, including inadequate space to allow turning a vehicle around;*
- ii. *Meet minimum standards for emergency access;*
- iii. *Provide access that conforms to the minimum standards of the Americans with Disabilities Act;*
- iv. *Provide ~~shared or cross~~ access **for an easement**; or*
- v. *Improve the safety of traffic circulation within the site.*

j) **Width.** The width of the access as measured at the edge of the road right-of-way must not exceed the distance specified below unless otherwise required as a condition of the access permit. If the proposed development requires site plan review and includes modifying or resurfacing the access, the applicant must reduce the width of any existing access that exceeds the distance specified below.

- i. *12 feet for access serving single- and two-unit dwellings*
- ii. *18 feet for access serving multi-unit dwellings and non-residential uses not served by trailer trucks*
- iii. *24 feet for access serving non-residential uses served by trailer trucks*

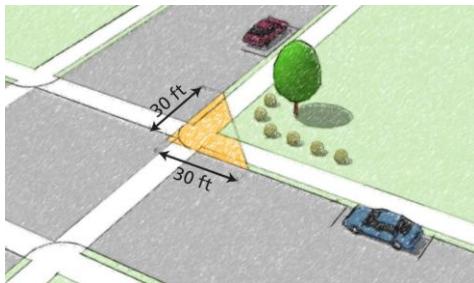
↳ **Sidewalks.** Where a sidewalk exists or will be constructed along the frontage, it must continue across the access. If the proposed development requires site plan review and includes modifying or resurfacing the access, the applicant must replace the sidewalk across any existing access where the sidewalk is missing.

1) **Spacing.** There are no spacing requirements for access serving single- and two-unit dwellings. All other new access must conform to the standards below unless otherwise required as a condition of the access permit.

- A new access must be aligned with any existing access on the opposite side of the road whenever feasible, and if not feasible, the centerlines must be offset by at least 125 feet.*
- A new access must be separated from existing access on the same side of the road or road intersections by at least 125 feet as measured from centerline-to-centerline.*

Sight Triangle. Trees, shrubs, hedges, fences, walls, signs and similar structures must not obscure vision above a height of 3 feet within the 30-foot sight triangle of an intersection as shown in Figure 3-01. This will not be interpreted to apply to buildings constructed in accordance with zoning district standards. This provision to prevent visual obstructions at intersections is in addition to the sight distance standards for new access onto town or state highways.

i. **Sight Triangle**



SIGHT TRIANGLE MEASURED 30 FT ALONG THE EDGE OF THE ROAD SURFACE. NO OBSTRUCTIONS TALLER THAN 3 FEET ARE ALLOWED WITHIN THE SIGHT TRIANGLE.

3003. Accessory Structures

Applicability. This section applies to any subordinate structure that is located on the same lot as the related principal structure or use and that is clearly incidental to the principal structure or use. An allowed principal structure or use includes accessory structures in accordance with this section.

No permit is required for an accessory structure that:

- Is no larger than 200 square feet;
- Is not more than 12 feet tall;

- *Is not used as a dwelling unit.*
- Meets the front setback and is located no closer than 10 feet of the side or rear property line

Setbacks. *Unless otherwise specified in these regulations, all other accessory structures must meet district setbacks unless the DRB grants a waiver or a variance.*

- m) Not exceeding a footprint of 500 square feet and a height of 12 feet:
 - i. ~~May be located within 10 feet of the side or rear property line; and~~
 - ii. ~~Must meet the front and stream or shoreline setback requirements for the applicable zoning district.~~
- n) With a footprint of more than 500 square feet or a height of more than 12 feet ~~must meet all setback requirements for the applicable zoning district.~~
- o) ~~Within the village districts must be located behind the frontline of the principal building.~~

Height. *No accessory structure may exceed 24 feet in height unless otherwise specified in these regulations (also see Paragraph).*

3004. Accessory Uses

Applicability. *This section applies to any accessory use that is located on the same lot as the related principal use. If the principal use is discontinued, all related accessory uses must terminate.*

General Standards. *The Administrative Officer may issue a zoning permit for an accessory use upon finding that the applicant has demonstrated that the proposed accessory use will:*

- Support and further the purposes of the related principal use;
- Be in common ownership and operation with the related principal use;
- Be subordinate in size and intensity to the related principal use;
- Meet the performance standards of Section 3105; and
- Meet any other standards of these regulations applicable to the proposed use.

Non-Residential Uses. For non-residential uses, the total area devoted to one or more accessory uses on the lot must not exceed 10% of the area devoted to the principal use on the lot.

3005. Camping and Camping Units

Applicability. Any parcel of land that is occupied by or designed to accommodate more than 3 camping units (tents, yurts, recreational vehicles, cabins, lean-tos, tiny homes etc.) will be considered a campground and subject to all applicable provisions of these regulations applicable to campgrounds (see Section). All other camping uses and storage of camping units outside an approved campground or sales lot, will be subject to the standards of this section.

Storage of Camping Units. A zoning permit is not required to store 1-3 camping unit within required setbacks on a single- or two-unit residential lot in accordance with the following: Landowners may not charge a fee for storing a camper or trailer on a residential lot

- a. Camping units must be the personal property of a person residing on the lot;
- b. Camping units must not be located within required setbacks; and
- c. Within the village districts, camping units must be located either in the driveway, behind the frontline of the principal building or within an enclosed structure.

Non-Commercial, Short-Term Occupancy of Camping Units. A landowner may have up to two camping units on the property that are occupied by non-paying guests. No zoning permit will be required if occupancy is limited to not more than 7 consecutive days and a total of 14 days in a calendar year. A landowner may apply for a temporary zoning permit under Section 3026 to allow non-paying guests to occupy a camping unit longer. A landowner must obtain a zoning permit for a campground under Section to offer camping to paying guests.

Camping Unit as a Primitive Camp. A landowner may apply for a zoning permit to occupy a camping unit on a parcel as a primitive camp in accordance with Section 3205.

Camping Unit as a Temporary Dwelling. The Administrative Officer may issue a temporary permit in accordance with Section 3026 authorizing a landowner to occupy a camping unit on a lot during the period when a permanent dwelling is under construction or renovation on that lot. **Camping units used as a temporary dwelling more than 60 days in a year need to meet state septic rules per Vt septic rules..**

Camping Unit as a Permanent Dwelling. The Administrative Officer may issue a permit authorizing a camping unit to be used as a dwelling unit only if it meets all requirements for a lawful dwelling unit in these regulations (see Section 3010).

3006. Construction-Related Structures and Uses

Applicability. Temporary construction-related structures and uses are permitted in any district on the site of permitted development or in an approved staging area in accordance with the provisions of this section. Construction-related structures and uses may include, but are not limited to, temporary dwelling units, temporary access and driveways, construction offices, construction trailers, construction dumpsters, storage buildings, portable toilets, fences and signs.

Permitting Process. The permit for the development will include approval of any construction-related structures or uses. Construction-related structures must be removed from the property promptly upon completion of work and before the Administrative Officer may issue a final certificate of compliance in accordance with Section 4206.

Staging Areas. The Administrative Officer may issue a zoning permit for the temporary use of land in the Rural and General Business zoning districts as a staging area for an off-site construction project. The Development Review Board may allow the temporary use of a property in any other district as a staging area for an off-site construction project as a conditional use.

3007. Demolition

Applicability. All demolition must conform to the standards of this section. Any demolition, including demolition that does not require a zoning permit under Paragraph 1101.A(8), not conforming to the standards of this section will be considered a violation of these regulations.

Commented [WG17]: 1. The landowner is responsible for following state and federal rules on lead, asbestos, and buried or leaking fuel tanks.

General Standards. Within 360 days after demolition is complete:

- All structural materials and debris must be removed from the site;
- The site must be restored to a natural grade; and

- Groundcover must be re-established or other appropriate measures taken to prevent erosion.

3008. Driveways

Applicability. *New, extended or modified driveways serving proposed development and lots being created through subdivision must conform to the standards of this section. A driveway must not serve more than 3 lots or principal buildings. A vehicular travel way proposed to serve more than 3 lots or principal buildings or that is located within a public right-of-way will be considered a road and must conform to the standards of Subsection 3308.D.*

Public Works Specifications. *If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of Londonderry, the Public Works Specifications will take precedence.*

Permit. *The Administrative Officer may issue a zoning permit for a driveway separate from the permit for any development served by the driveway.*

Design Standards. *Driveways must meet current VTrans B-71 standards and design standards below. In the case of a conflict between a B-71 standard and these regulations, the town standard will take precedence except within the state highway right-of-way.*

- **Angle.** Driveways must intersect the road at an angle as close to 90 degrees as feasible given site-specific conditions. Driveways must not intersect the road at an angle of less than 75 degrees if designed for two-way traffic or 60 degrees if designed for one-way traffic.
- ⊖ **Grade. Driveways must maintain a:**
 - *Negative slope (between -2% and -1%) for the first 40 feet from the edge of the road surface and at least 20 feet from the centerline of any driveway culvert.*
 - *A slope that does not exceed an average of 12% as measured from the edge of the road right-of-way to the end of the driveway with no portion exceeding a slope of 15%.*
- d. **Width.** Residential driveways must have a drivable width of at least 8 feet and not more than 12 feet and non-residential driveways must have a drivable width of at least 16 and not more than 24 feet, exclusive of any parking, pull-off or turnaround areas. The Development Review Board may approve a waiver to allow a wider driveway if the applicant can demonstrate that it is necessary to:
 - Accommodate unique physical conditions on the property;
 - Serve trailer trucks;
 - Meet minimum standards for emergency access;
 - Meet the minimum standards of the Americans with Disabilities Act; or
 - Provide improved traffic circulation within the site.

Commented [WG18]: 2. Setback. Driveways must be set back twenty feet from side and rear property boundaries Unless the development Review Board grants a variance for a reduced setback.

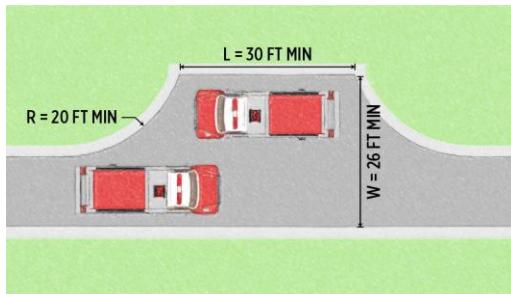
Commented [WG19]: Number of houses allowed on per driveway reduced from 3 to 2

- e. **Clearance.** Driveways must be designed and maintained with a minimum horizontal clearance of 3 feet on each side of the drivable width and a minimum vertical clearance of 13 feet.
- f. **Drainage.** Driveways must:
 - i. *Be designed with swales or ditches that capture and direct run-off to vegetated areas, retention areas, and/or other stormwater practices before it reaches the road right-of-way in accordance with Section 3024;*
 - ii. *Not discharge run-off or eroded material onto the road; and*
 - iii. *Not block the flow of drainage within public rights-of-way. Where a culvert is necessary to carry drainage under the driveway it must:*
 - 1. Be at least 18 inches in diameter and sized to convey anticipated peak stormwater flows;
 - 2. Extend at least 2 feet beyond the edge of the driveway and be adequately constructed to minimize erosion and damage to the pipe at the inlet and outlet;
 - 3. Be aligned with the centerline of the swale; and
 - 4. Be installed and maintained by the landowner.

Bridges and Culverts Used for Access

- a) Bridges on private land that are used for vehicular access:
 - Require a zoning permit.
 - Do not have to meet boundary setbacks.
 - Must be designed by an architect or engineer to be suitable for use by fire trucks and must be approved by the Applicable Fire Chief (Londonderry or South Londonderry).
- b) The installation of new bridges and culverts which carry running water under driveways and private roads may need to be approved by the local **Agency of Natural Resources River Management engineer.** ANR approval is not required of a culvert in a dry roadside ditch.
- g. **Pull-Offs.** A driveway longer than 400 feet with a drivable width of less than 20 feet must be constructed with pull-off areas to accommodate emergency vehicles as specified in Figure 3-02 that are not more than 450 feet apart. The Development Review Board may approve a waiver to reduce or eliminate the requirement for pull-offs if:
 - 1. The building(s) served by the driveway will have a sprinkler system; or
 - 2. A fire pond that meets the standards of Subsection 3308.E will be located within 450 feet of the building(s) served by the driveway.

i. Driveway Pull-Offs



- h. **Turnarounds.** A driveway longer than 800 feet must provide a turnaround area not more than 50 feet from the principal building with a minimum turning radius of 30 feet to accommodate emergency and service vehicles. Potential designs include those shown in Figure 3-06.
- i. **Snow Storage.** A driveway longer than 800 feet must be designed with one or more areas for snow storage that total not less than 10% of the surface area of the driveway. Required pull-offs and turnarounds must not be used for snow storage. Meltwater from stored snow must be directed to vegetated areas, retention areas, and/or other stormwater practices before it reaches the road right-of-way in accordance with Section 3024.

J. **Shared Driveways.** Before the Administrative Officer may issue applying for a zoning permit for a new principal structure or use to be served by a shared driveway, the applicant must demonstrate that a Shared Driveway Agreement has been recorded in the town land records. applicants should consider entering into a private road maintenance agreement with their neighbors.

3009. Drive-Through Facilities

Commented [WG20]: More flexibility for DRB

Drive-through facilities must not cause congestion or other unsafe conditions within the site or on the road. The Development Review Board may require an applicant to provide engineered plans demonstrating that adequate space exists on the site to accommodate queueing. Curbside delivery using existing parking spaces is allowed without a zoning permit.

Any business that provides in person customer service may seek conditional use approval for drive through service. Drive through facilities must be designed in accordance with the following:

- k. Stacking lanes (where vehicles queue for service) and service windows must be located to the side or rear of the building.
- l. Stacking lanes must be clearly signed, marked and separated from travel lanes.
- m. Stacking lanes must not block access to service drives, parking spaces or loading areas.

- n. Drive through traffic must not cause congestion or other unsafe conditions within the site or on the road. A minimum stacking lane length of 200 feet is preferred and the Development Review Board may require an applicant to provide engineered plans demonstrating that adequate space exists on the site to accommodate queueing vehicles. A failure to accommodate all vehicles queueing for service on the property outside the road right of way will be considered a violation of these regulations and could result in the Town of Londonderry requiring the business to cease drive through service.
- o. One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
- p. Stacking lanes and service windows must not be located within district setbacks.
- q. Menu boards and other signage must conform to the standards of Paragraph 3107.N.
- r. ~~The DRB may require that~~ Drive through facilities must be screened in accordance with Section 3106 to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

The provisions of this section do not apply to carwashes (see Section).

3010.Dwelling Units

Applicability. The standards of this section apply to any structure or portion of a structure used or intended to be used as a dwelling unit.

Foundation. A dwelling unit must be within a structure located on and attached to a site built permanent foundation (for structures built on a permanent chassis also see Section 3016) except:

- s. The Development Review Board may grant conditional use approval for a dwelling unit not located on and attached to a site built permanent foundation upon the applicant submitting plans stamped by a structural engineer certifying that the proposed design meets the minimum requirements of the International Building Code as most recently amended.

Fire and Building Safety. *Per Vt Division of Fire Safety rules* All dwelling units other than owner-occupied single-unit homes and accessory dwelling units that conform to state requirements (see Section 3204) must meet Vermont Fire and Building Safety Code. The Administrative Officer may require a landowner to provide a copy of the applicable state permit(s) prior to issuing a Certificate of Compliance for a dwelling unit subject to Fire and Building Safety Code or as part of an enforcement action under ~~Subchapter~~ **Sections 4600-4605**.

Minimum Unit Size. *The minimum size of a dwelling unit must not be less than:*

- t. 150 square feet for a studio or efficiency unit (one open living area that includes cooking, living and sleeping quarters, as well as sanitation facilities in accordance with Subsection 3010.E);
- u. 220 square feet for a one bedroom unit; or

v. 220 square feet plus an additional 70 square feet for each additional bedroom (290 sf for two-bedroom, 360 sf for three bedroom, etc.).

Cooking and Sanitation Facilities. All dwelling units must have safe, functioning cooking and sanitation facilities in accordance with the following:

- a. A dwelling unit must contain at least one permanent bathroom facility consisting at a minimum of a toilet, sink, and shower or bathtub. ~~The toilet and shower or bathtub must be within a room or enclosure that is fully separated from other living spaces by walls and one or more doors.~~
- b. A dwelling unit must contain permanent kitchen facilities. A kitchen must be a room or portion of a room in which there is a sink, refrigerator, and one or more appliances for heating food.
- c. Any dwelling unit within a multi-unit building must have utility connections for a washing machine and clothes dryer in each unit or must provide a common laundry room in the building with washing machines and clothes dryers accessible to residents.

Parking. All dwelling units must have parking in accordance with Section 3104.

Water Supply and Wastewater Disposal. All dwelling units must have safe, functioning water supply and wastewater disposal systems in accordance with Section 3029.

Trash Disposal. All multi-unit dwelling units must have convenient access to trash, recycling and compost storage areas in accordance with Section 3108.

3012. Energy Generation Facilities

Applicability. A landowner may obtain a zoning permit for an energy generation facility not exempted in ~~Subchapter Sections 1100-1105~~ in any district in accordance with the standards of this section. The standards of Subsections B through D apply to energy generation facilities not exempted in ~~Subchapter Sections 1100-1105~~. The standards of Subsection E apply to solar electric generation facilities regulated by the Public Utilities Commission. The provisions of this section do not apply to portable or standby generators used as either a backup or primary electric power source. Portable or standby generators will be considered an accessory structure/use under these regulations.

Setbacks. An energy generation apparatus that is not mounted on a building must be set back a distance equal to its height or more from all property lines or the district minimum setback requirement, whichever is greater. Any guy wires must be located outside the minimum setbacks for the applicable district.

Height. The height of an energy generation apparatus must conform to the following:

- a. The height of ground-mounted solar energy generating apparatus must not exceed 24 feet.
- b. The height of a ground-mounted wind energy generating apparatus (inclusive of the rotors) must not exceed the greater of 125 feet or 40 feet above any obstructions within a 500-foot radius.

e. A ground-mounted wind energy generating apparatus must be installed so that the hub is not less than 50 feet above the ground and that the clearance between the ground and the tip of the rotor at its lowest point is not less than 30 feet. There are no dangerous moving parts closer than 30 feet above the ground

d. An energy generating apparatus mounted on a building roof must not extend more than 12 feet above the roof surface.

Removal. A facility that has been out-of-service for more than 12 months will be considered discontinued and the owner must remove it. It will be the landowner's responsibility to demonstrate that a facility is not out-of-service.

Screening Requirements. A solar electric generation facility regulated by the Public Utilities Commission must meet the screening requirements of Subsection 3106.E for utilities and service areas.

3012. Erosion Prevention and Sediment Control

Purpose. This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies.

Applicability. All construction or demolition activities that will disturb any amount of soil must implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure or downstream water bodies as set forth in the general standards below. ~~All construction, demolition and property maintenance activities that will disturb any amount of soil must be undertaken in accordance with the best practices below (for further guidance see~~

General Standards. Applicants disturbing ~~5,000~~ **10,000** square feet or less of soil will not be required to submit documentation related to erosion control as part of a complete application but will be subject to enforcement action under these regulations if construction or demolition activities result in erosion or sedimentation adversely impacting nearby properties, public infrastructure or downstream water bodies. Enforcement measures may include a stop work order until such time that the property owner has prepared and implemented an erosion control plan.

- a. Limit the size of the disturbance area to the minimum necessary to accommodate the proposed construction or demolition.
- b. Preserve existing mature trees within the disturbance area where feasible. Trees to be preserved within the disturbance area should be protected by fencing that at a minimum encloses the area around their drip line.
- c. Mark site boundaries to identify the limits of disturbance (including storage and access areas) with flags or fencing.
- d. Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
- e. Stabilize and maintain the construction entrance to prevent mud from being tracked onto roads.

- f. Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction/demolition activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
- g. Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and/or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or surface waters.
- h. Treat and filter any water pumped out of the disturbance area before allowing it to flow off the site or to be discharged to a storm drain or surface water.
- i. Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
- j. Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
- k. Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
- l. Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
- m. Till any compacted soil prior to the final seeding and mulching.
- n. Stockpile the topsoil removed during construction/demolition and spread it back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it must be amended as needed.

For more information applicants should consult the Vermont Agency of Natural Resource's Low Risk Site Handbook for Erosion Prevention and Sediment Control, as most recently amended).

Public Works Specifications. *If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of Londonderry, the Public Works Specifications will take precedence.*

Small Projects. *Applicants who are proposing construction or demolition activities that will disturb more than 5,000 square feet but less than 10,000 square feet of soil must complete and conform to the conditions specified in the Small Project Erosion Prevention and Sediment Control Checklist provided by the Administrative Officer.*

Large Projects. *Applicants who are proposing construction or demolition activities that will disturb more than 10,000 square feet of soil must submit and implement a professionally prepared erosion control plan in accordance with the Vermont Standards and Specifications for Erosion Prevention and Sediment Control, as most recently amended.*

Projects Subject to State Permitting. *Development that obtains a state construction general or individual permit will be deemed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Administrative Officer prior to the start of construction.*

3013. Fences, Walls and Berms

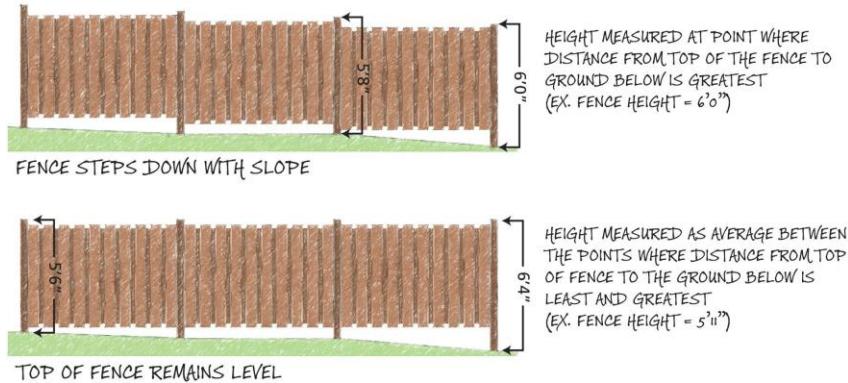
Applicability. *The provisions of this section apply to all fences and walls not exempted in Subchapter Sections 1100-1105. For agricultural fences, see Section 1103.*

Setbacks. *Fences and non-retaining walls not more than 6½ feet tall, and retaining walls and berms not more than 4 feet tall are not subject to setback requirements. Higher fences, walls or berms may be located within side or rear setbacks when the adjoining landowners submit a joint application for the boundary fence, wall or berm. In the case of a fence or wall being constructed on top of a berm, the height of the combined fence or wall and berm will be used to determine setback requirements.*

Fences and Non-Retaining Walls. *The maximum height of fences and non-retaining walls will be 8 feet unless otherwise specified by the Development Review Board through site plan review in order to provide adequate screening or security. The height of a fence or non-retaining will be measured as follows and as shown in Figure 3-03:*

- a. If the fence or wall is designed to follow the grade or otherwise not maintain a level elevation along its top edge, the height will be measured from the highest part of the fence or wall (including any structural or decorative elements) to the finished grade immediately below at the point along the fence or wall where that distance is the greatest.
- b. If the fence or wall is designed to maintain a level elevation along its top edge, the height will be the average as measured from the highest part of the fence or wall (including any structural or decorative elements) to the finished grade immediately below the two points along the fence or wall where the finished grade is the lowest and the highest;

i. Fence Height



Retaining Walls. Retaining walls must be located and designed as follows:

- a. No individual retaining wall may exceed 16 feet in height except that pre-existing retaining walls more than 16 feet in height may be repaired and reconstructed to their pre-existing height.
- b. **All** For applications subject to site plan review, the DRB may require that retaining walls more than 4 feet in height ~~must~~ be designed by a qualified professional, and **that they** must be topped by a fence, hedge or similar barrier. For a system of terraced walls, only the uppermost wall will require a barrier provided that the terraced sections below are not readily accessible from other portions of the property.
- c. The height of a retaining wall will be measured from the grade at the base of the face of the wall to the grade at the back of the wall immediately above at the location along the wall where those two grades are the furthest apart (see Figure 3-04).
- d. Terracing of retaining walls is encouraged. To be considered separate walls, two retaining walls must be separated by a horizontal distance of at least 5 feet.

i. **Retaining Wall Height**



ii. **Materials and Design.**

Unless otherwise established by the Development Review Board through site plan review, a fence or wall:

- a. Must be constructed of permanent material such as wood, metal, stone, concrete, brick or other materials of similar durability;
- b. Must not be designed to inflict, or constructed of materials capable of inflicting, significant physical injury except as required to meet state or federal regulations (e.g., barbed wire, razor wire, glass shards, etc.); and
- c. ~~Must be constructed so that the ‘finished’, ‘presentation’ or ‘good’ side faces out towards the property lines.~~

Berms. *Berms located within setbacks, constructed in conjunction with a fence or wall, or used to meet the landscaping or screening requirements of these regulations must be designed as follows:*

- a. A berm must have a curvilinear, naturalistic shape with sloped sides and a flat or slightly rounded top;
- b. The sides of a berm must not exceed a 2:1 slope (horizontal-to-vertical);
- c. The top of a berm must have a minimum width that is at least $\frac{1}{2}$ the height of the berm; and
- d. A berm must be stabilized with groundcover or other vegetation to prevent erosion and sedimentation.

3014. Grading, Excavation, Fill and Storage of Earth Materials

Applicability. The provisions of this section apply to all grading, excavating or filling of land and storage of earth materials not exempted in ~~Subchapter Sections 1100-1105~~ or associated with a lawful earth resource extraction operation. A landowner must obtain a zoning permit for grading, excavating, filling of land or storing of earth materials in accordance with the provisions of this section.

Waterways or Wetlands. Grading, excavation, fill and storage of earth materials is prohibited within surface waters, wetlands and any required buffers to surface waters or wetlands unless the activity will be subject to state permitting and the applicant demonstrates that he/she has obtained all required state permits.

Flood Hazard Areas. See Section 2201 for grading, excavation, fill and storage of earth materials within the Flood Hazard Overlay District.

Fill Material. The use of any material other than uncontaminated ~~natural soil for~~ clean fill (may contain soil, stone, gravel, concrete, ceramic, or brick and mortar) is prohibited unless the proposed fill will be subject to state permitting, in which case the conditions of the state permit regarding the fill material will prevail.

General Standards. Grading, excavation and fill must conform to the following:

- a. Grading, excavation or fill is prohibited within side and rear setbacks;
- b. Grading, excavation or fill must not result in a slope steeper than a 2:1 (horizontal-to-vertical) ratio; and
- c. Grading, excavation or fill must not affect existing drainage patterns on adjacent lots or public rights-of-way.

Material Storage. Stockpiles of earth materials (soil, compost, sand, gravel, crushed stone, etc.) must be properly managed to prevent erosion and sedimentation in accordance with the provisions of Section 3012. A landowner must obtain a zoning permit and complete and conform to the conditions specified in the ~~Town of Londonderry Small Project Erosion Prevention and Sediment Control Checklist~~ ~~The Vt. Low Risk Site Handbook for Erosion Prevention and Sediment Control as provided by the Administrative Officer~~ prior to storing more than 150 cubic yards of material on a site for more than ~~15~~ ~~30~~ days. Applicants will be subject to enforcement action under these regulations if storage of grading, excavating, filling of land or storing of earth materials results in erosion or sedimentation adversely impacting nearby properties, public infrastructure or downstream water bodies. Enforcement measures may include a stop work order until such time that the property owner has prepared and implemented an erosion control plan.

3015. Landing Areas

Purpose. The purpose of this section is to ensure that any person engaged in aircraft landings or departures within the Town of Londonderry does so in a manner that:

- w. Is consistent with the safety and rights of others in the community; and
- x. Does not unduly impact Londonderry's rural character.

Applicability: *This section does not apply to the creation or the use of landing sites for emergency aircraft.*

Conformance with Federal Law. *This section is intended to conform to federal law, which grants the federal government exclusive sovereignty over the country's airspace. Federal law pre-empts state and municipal authority to regulate airspace use and management, air traffic control, safety and aircraft noise. Therefore, review and approval/denial of applications for landing areas under this section:*

- a. Must not consider noise or safety issues or impose any conditions that relate to noise or safety issues; and
- b. Must be limited to those aspects under local control as specified in this section – location, site improvements and use.

Applicability. *Consistent with 5 V.S.A. Chapter 9, a property owner must obtain approval from the Town of Londonderry prior to submitting an application to the Vermont Transportation Board to establish or alter a restricted aircraft landing area, a helicopter landing area or an ultra-light landing area. Conditional use approval under Section 4305 is required for landing areas. This section does not apply to the piloting or autonomous flying of drones or to emergency aircraft landings or take-offs.*

Application Requirements. *A property owner must submit a copy of a completed Vermont Agency of Transportation Aviation Program Application for Establishment or Alteration of a Restricted Aircraft Landing Area, a Helicopter Landing Area or an Ultra-Light Landing Area along with a narrative and site plan demonstrating compliance with the purpose and the specific standards of this section.*

Use Limitations. *The Town of Londonderry:*

- a. Limits use of landings areas approved under this section to personal transportation for property occupants and non-paying guests, including landings of aircraft hired or chartered by property occupants and non-paying guests;
- b. Prohibits use of landing areas approved under this section for commercial flying activity (transportation of persons or property by aircraft for compensation or hire); and

Prohibited Areas. *Landing areas must not be located:*

- a. Within wetlands, wetland buffers and riparian buffers;
- b. On steep slopes as established in Section 3021; and
- c. Within the Village Business, Village Mixed Use, Village Residential or Residential districts.

Minimum Lot Size. Landing areas must be located on a lot 25 acres or more in size.

Setbacks. Landing areas must be located at least:

- a. 400 feet from side and rear property lines (will not apply to boundaries between lots in common ownership);
- b. 600 feet from all public and private roads; and
- c. 1,000 feet from residences and other buildings located on surrounding parcels that are regularly occupied by people, livestock or companion animals.

Setbacks. Landing areas must be sited so that all portions of the approach/departure zone within which the FAA regulates the height of structures or vegetation are fully contained on the subject property (see FAA Circular 150).

Outdoor Lighting. Landing areas may not be illuminated unless the lighting is mandated by the FAA.

3016.Manufactured Homes and Tiny Houses

Commented [WG21]: More flexibility for homeowners.

Applicability. The provisions of this section apply to all manufactured homes, tiny houses or other structures built on a permanent chassis intended to be occupied as a dwelling unit (also see minimum standards for dwelling units in Section 3010).

Manufactured Home Installation. All manufactured homes to be placed on a lot for use as a dwelling unit must be installed by a licensed installer in compliance with HUD's [Model Manufactured Home Installation Standards](#) (includes a requirement that the structure be located on a permanent foundation that meets the minimum foundation requirements of HUD's [Permanent Foundations Guide for Manufactured Housing](#)) and the following:

- y. All wheels, hitches, axles, transporting lights and removable towing apparatus must be removed prior to installation of the manufactured home.
- z. The foundation must have continuous skirting or backfill leaving no uncovered open areas except for access to vents and crawl spaces.

aa. The applicant must provide the Administrative Officer with a copy of the certification signed by the licensed installer prior to occupying the home.

Installation of Tiny Houses or Other Structures. All tiny houses or other structures built on a chassis to be used as a dwelling unit must be installed as follows:

- bb. All wheels, hitches, axles, transporting lights and removable towing apparatus must be removed prior to installation of the structure.
- cc. The structure must be located on a permanent foundation that meets the minimum foundation requirements of HUD's [Permanent Foundations Guide for Manufactured Housing](#).
- dd. The foundation must have continuous skirting or backfill, leaving no uncovered open areas except for access to vents and crawl spaces.

Individual Lots. A manufactured home, **mobile home**, or tiny house on an individual lot will be treated the same as any other single-unit dwelling under these regulations.

Multi-Unit Developments. The following standards apply to a residential development intended to accommodate multiple manufactured homes, tiny houses or other structures built on a chassis. Such developments:

- a. Will be allowed in all districts where multi-unit dwellings are allowed;
- b. Must be designed, reviewed and approved as a planned unit development in accordance with ~~Subchapter~~ **Sections 3400-3403**;
- c. Must be designed so that each dwelling unit will be located on a delineated site as shown on the approved site plan that is not less than 4,000 square feet in area;
- d. Must be designed so that each dwelling unit will be located not closer than 30 feet to any other home within the park; and
- e. Must be served by a single access unless otherwise approved by the Development Review Board through site plan review to provide adequate emergency access or improve traffic safety.

3017. Personal Storage

The Administrative Officer may issue a zoning permit for a structure to be used for non-commercial storage of the landowner's personal or household goods as the principal use/structure on a lot in any district in accordance with the dimensional standards of the applicable zoning district and all other applicable provisions of these regulations (see Sections 3019 and 3023 for portable structures and use of vehicles or trailers for storage as applicable).

3018. Ponds

Applicability. The provisions of this section apply to any constructed pond not exempted in ~~Subchapter~~ **Sections 1100-1105**. A landowner must obtain a zoning permit to construct, expand or modify such a pond in accordance with the provisions of this section.

Waterways or Wetlands. Construction of a pond within wetlands and any required buffers to surface waters or wetlands is prohibited unless the applicant demonstrates that he/she has obtained all required state permits.

General Standards. Ponds must conform to the following:

- a. Ponds are prohibited within zoning district setbacks;
- b. ~~Ponds must have a grassed spillway system capable of handling stormwater overflow from the pond;~~
- c. Stormwater overflow must not be discharged in a manner that would adversely impact downslope properties, public rights-of-way or surface waters; and
- d. Landowners must manage and maintain **ponds** dams so as to not create a nuisance or hazard.
- e. **ponds** capable of holding more than 500,000 cubic feet of water require a state permit

- f. ponds may have to meet setbacks from wells and septic systems
- g. There is no building setback from ponds that are not connected to wetlands

3019. Portable Structures

*Landowners must obtain a zoning permit to **permanently** locate portable **storage** structures **and** structures not located on a permanent foundation on their property to the same extent as comparable structures on a permanent foundation (see **Subchapter Sections 1100-1105** for a list of structures that do not require a zoning permit and Section 3026 if the structure will be in place less than 6 **12** months). This specifically includes, but is not limited to:*

- ee. Trailers, containers or unregistered vehicles used for storage (see Section 3023); and
- ff. **Portable canopies**, garages, carports, greenhouses or similar shelter structures.

gg. DEVELOPMENT IN A PUBLIC RIGHT-OF WAY

Land development within public road rights-of-way is subject to approval from the town road commissioner or state Department of Transportation as applicable. The right of way on town roads is assumed to be 25 feet from the middle of the road.

3020. Riparian Buffers

Purpose. *This section is intended to protect and enhance the overall quality, natural function and ecological health of the town's surface water resources by mitigating the impact of development within riparian areas (**lands that border bodies of water like rivers, streams, and lakes**).*

Applicability. *The provisions of this section apply to all land (as measured from the top of bank) within stream and shoreline setback established for the applicable zoning district. Where this land is also within the Flood Hazard, the provisions of Section 2201 will take precedence over the provisions of this section.*

General Standards. *Development is prohibited and woody vegetation must be maintained or established within riparian buffers except that:*

- a. Public outdoor recreation uses and trails will be allowed to the extent allowed in the applicable zoning district.
- b. A landowner may remove dead, diseased or unsafe trees and invasive or nuisance species, and may prune tree branches within the bottom one-third of a tree's height within the riparian buffer.
- c. On previously developed single- and two-unit residential lots, natural woody vegetation will not have to be re-established on areas within the riparian buffer being maintained as lawns or gardens.

- d. A landowner may clear and use up to 1,000 square feet within the riparian buffer for private water access, outdoor recreation, outdoor seating, or a view corridor. That area may be covered with mowed lawn, decks, patios, walkways or other impervious surfaces.
- e. A landowner may use the vegetation within the riparian buffer in conjunction with green stormwater infrastructure (GSI) practices in accordance with Section 3024 provided that such practices will:
 - 1. Not significantly compromise the resource protection functions of naturally vegetated riparian buffers; and
 - 2. Adequately treat the stormwater so that it meets water quality standards before it is discharged to the surface water body.
- f. Water-dependent structures or uses, streambank or shoreline stabilization projects, and ~~any other~~ development authorized by a state permit will be allowed within the riparian buffer to the extent allowed in the applicable zoning district as a conditional use in accordance with Subsection 3020.E. The property owner must provide the Administrative Officer with a copy of the state permit prior to the start of construction.

Nonconforming Sites. *Pre-existing development within riparian buffers will be regulated in accordance with the following:*

- a. The pre-existing development within the buffer may continue.
- b. A pre-existing building, developed site, or portion of a building or site within the buffer may be used for any purpose allowed in the zoning district provided that there will be no extension of the development footprint within the buffer.
- c. Redevelopment and new construction may be allowed within the footprint of any existing impervious surface within the riparian buffer; and
- d. Conditional use approval in accordance with Subsection 3020.E will be required if the applicant is proposing construction, new impervious surface or other physical modifications to the site or structure(s) that have the potential to adversely impact the natural functions of the riparian buffer.

Conditional Use Criteria. *In addition to all other applicable criteria of these regulations, an applicant seeking conditional use approval for land development within a riparian buffer must demonstrate that:*

- a. The proposed land development cannot reasonably be accommodated on any portion of the parcel outside the riparian buffer.
- b. The footprint of the proposed land development within the riparian buffer is the minimum necessary to accommodate the proposed use or structure.
- c. The proposed land development will not have new or greater (as compared to existing conditions) adverse impact on the natural functions and quality of the surface water, drainage, erosion, sedimentation and downstream flooding.
- d. There will be (listed in order of preference):

1. *No net increase in impervious surface within the riparian buffer;*
2. *A de minimis increase in the amount of impervious surface within the riparian buffer; or*
3. *Mitigation for any additional impervious surface within the riparian buffer. Preferred mitigation is re-vegetation of an area adjacent to the riparian buffer equivalent or greater in size than the area to be impacted by proposed development. The Development Review Board may require the applicant to submit a professionally prepared environmental impact assessment and mitigation plan.*

3021. Steep Slopes

Purpose. *This section is intended to avoid property damage, personal injury and infrastructure damage, and minimize the potential for erosion, slope failure, sedimentation of surface waters, increased runoff, flooding and contamination of surface waters resulting from development on steep slopes.*

Applicability. *The provisions of this section apply to any development requiring a permit under these regulations that will clear or disturb steep slopes except for de minimis clearing or disturbance associated with recreational trails and paths.*

Definition and Measurement. *For the purposes of these regulations, steep slopes will be defined as more than 20,000 square feet ~~1/2 acre~~ of contiguous land area with a slope of 20% or greater (including land beyond the parcel or project site). The Steep Slope Advisory Map will be used to identify areas that may meet this definition. If an applicant is proposing to clear or disturb land within the mapped areas, it will be the applicant's responsibility to show the presence and extent of steep slopes within the project area using either the most recent lidar data available from the Vermont Center for Geographic Information or a topographic survey stamped by a licensed Vermont surveyor.*

General Standards. *A landowner must obtain a conditional use approval for any development that will clear or disturb steep slopes. The Development Review Board may require the applicant to provide a professionally prepared environmental impact assessment, erosion control plan, stormwater management plan, and/or engineered site plan. In addition to all other applicable criteria, the applicant must demonstrate that the proposed land development:*

- a. Cannot reasonably be accommodated on a portion of the lot not characterized by steep slopes (siting in order to capture a view will not be considered a valid reason to develop steep slopes);
- b. Has been sited and designed to avoid and minimize impacts to steep slopes to the maximum extent feasible;
- c. Has been designed and engineered with appropriate erosion control measures and stormwater management practices so that there will be no off-site water quality or flooding impacts (see Sections 3012 and 3024);
- d. Conforms to the standards of Section 3014; and

- e. Has been designed and engineered to provide safe and adequate vehicular access, including for emergency and service vehicles (see Section 3002, Section 3008 and Subsection 3308.D as applicable).

3022. Storage of Junk or Waste

The Town of Londonderry prohibits the storage of junk or waste outside an enclosed building for more than 90 days except as specifically allowed as part of an approved use and in accordance with the conditions of that approval.

The provisions of this section will not apply to state permitted solid waste facilities.

3023. Storage of Unregistered Vehicles or Trailers

The Town of Londonderry prohibits the storage of more than 3 unregistered vehicles or trailers on a parcel for more than 90 days outside an enclosed building and in a location visible from beyond the property lines unless the landowner A landowner may obtains a zoning permit allowing the unregistered vehicle truck or trailer to be located on the parcel as an accessory structure (also see Section 3019).

3024. Stormwater Management

Purpose. This section is intended to:

- a. Minimize and/or control the quantity and quality of stormwater run-off;
- b. Promote stormwater management methods that maintain pre-development hydrology and drainage patterns through project layout, site design, and best management practices that manage stormwater run-off as close to the source as possible;
- c. Limit clearing and grading to the minimum needed for construction and minimize impacts to natural vegetation;
- d. Prevent soil erosion and sedimentation resulting from non-point source pollution generated by development;
- e. Protect surface waters and other natural resources from degradation as a result of development;
- f. Minimize hazards from flooding and streambank erosion; and
- g. Prevent damage to, and reduce public expenditures associated with maintaining municipal infrastructure resulting from inadequate stormwater controls.

Applicability. *The provisions of this section apply to any land development that will increase the amount of impervious surface on a lot.*

Projects Subject to State Permitting. *Development that obtains a state stormwater permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Administrative Officer prior to the start of construction.*

Public Works Specifications. *If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of Londonderry, the Public Works Specifications will take precedence.*

General Standards. *All proposed development that will increase the amount of impervious surface of a lot must implement appropriate measures to reduce and manage stormwater to prevent run-off from adversely impacting nearby properties, public infrastructure or downslope water bodies.*

Design and Engineering Requirements. *Applicants must design and engineer proposed development in accordance with low-impact site design (LID) approaches and green stormwater infrastructure (GSI) best management practices to the maximum extent feasible given site-specific conditions including, but not limited to, soil characteristics and slope as follows:*

- a. *Applicants proposing development that will increase the amount of impervious surface on a lot by less than ~~2,500 ½ acre square feet~~ must complete the *Small Project Stormwater Management Checklist*.*
- b. *Applicants proposing development that is not subject to major site plan or conditional use approval and that will increase the amount of impervious surface on a lot by ~~2,500 square feet or more~~ must demonstrate that appropriate stormwater best management practices ~~will be implemented by completing the *GSI Simplified Sizing Spreadsheet*.~~*
- c. *Applicants proposing development that is subject to major site plan or conditional use approval and that will increase the amount of impervious surface on a lot by ~~2,500 to 10,000 ½ acre or more~~ square feet must demonstrate that appropriate stormwater best management practices will be implemented either:*

*1. By completing the *GSI Simplified Sizing Spreadsheet*;*

*2. By submitting and implementing a stormwater management plan in accordance with the *Vermont Stormwater Management Manual*. The Development Review Board may require the applicant to submit a professionally prepared stormwater plan for proposed development with potential impacts on steep slopes, riparian buffers, wetlands, floodplains or other natural resource areas.*

- d. *Applicants proposing development that is subject to major site plan approval and that will increase the amount of impervious surface on a lot by ~~more than 10,000 square feet~~ ~~½ acre~~ must submit and implement a stormwater management plan prepared by a professional engineer in accordance with the *Vermont Stormwater Management Manual* ~~available from the Vt Agency Of Natural Resources, Division of Environmental Conservation Stormwater Program.~~*

Best Management Practices. *Development that will increase the amount of impervious surface on a lot by 2,500 square feet or more must be designed so that stormwater run off will be routed through one or more appropriate green stormwater management best management practices (BMPs) in accordance with the following:*

- a. BMPs include, but are not limited to, rain gardens, vegetated swales, rain barrels, green roofs, constructed wetlands, stormwater planters, bioretention and infiltration trenches.
- b. BMPs must be sized and designed to capture the runoff from the 90th percentile annual rainfall event, which is equivalent to the first inch of rain. (See the *Simplified GSI Sizing Tool* for methods and calculations.)
- c. Stormwater from on-site impervious surfaces including, but not limited to, roofs, roads, driveways, parking areas, sidewalks and walkways must be guided to vegetated areas, retention areas, and/or other pervious surfaces in order to promote on-site water retention and filtration.
- d. Pervious paving will not be allowed as a BMP unless the applicant provides a stormwater management plan prepared by a professional engineer that includes maintenance protocols for the pervious paving to prevent degradation in function over time. When such a plan is provided and approved, pervious paving will no longer count towards lot coverage under Subsection .

Post-Construction Soil Depth and Quality. *All disturbed areas on a site not covered by impervious surface, incorporated into a structural stormwater treatment practice, engineered as structural fill or slope once development is complete, or consisting of exposed ledge must conform to the following:*

- a. The duff layer and at least topsoil in areas to be disturbed during construction must be removed and stockpiled onsite in a designated, controlled area that is not adjacent to surface waters, wetlands or floodplains.
- b. At project completion, the exposed soil within the disturbance area must be treated and/or amended as necessary to repair construction-related damage and compaction.
- c. The duff layer and topsoil must be re-applied to the disturbed areas once construction activities are complete so that there is a minimum 8 inch topsoil layer. If the stockpiled duff layer and topsoil is not sufficient to amend the graded areas, the applicant must import material as needed.
- d. The post construction soils within the disturbed area must be capable of supporting healthy vegetation and infiltrating stormwater.

3025. Swimming Pools

Applicability. The standards of this section apply to *in ground* swimming pools *not exempted in Subchapter Sections 1100-1105*

General Standards. A landowner may apply for a zoning permit to install a swimming pool in accordance with the following:

- a. Pools are prohibited within district setbacks;

- b. Pools must be located behind the frontline of the building (in the side or rear yard) in the village and residential districts;
- c. Inground Pools must be fully enclosed by a barrier at least 4 feet high that surrounds and obstructs access to the pool (applicants should be aware that there are state-regulated standards for pool fencing, gates and alarms may apply on properties other than owner-occupied single-unit homes and when single-unit homes used for other purposes such as daycare, lodging or short-term rental);**This will not apply to inground hot tubs that are kept covered when not in use.**
- d. Access gates must be self-closing, self-latching and lockable;
- e. Access steps or ladders must be capable of being secured, locked or removed when the pool is not in use.

3026.Temporary Structures and Uses

The Administrative Officer may issue a zoning permit for a temporary structure or use not exempted in Subchapter Sections 1100-1105.

A temporary structure or use will be subject to all applicable standards of these regulations for a comparable permanent structure or use including, but not limited to, the dimensional standards of the applicable district and the performance standards of Section 3105 except:

- hh. In response to a declared emergency and as required by such an emergency, the Administrative Officer may waive or modify the standards of these regulations and issue zoning permits for temporary structures or uses.

The permit for a temporary structure or use will be limited to a maximum of 1 year. A temporary permit cannot be extended under the provisions of Subsection 4203.C.

- a. Permits for temporary structures may be renewed upon application for an additional period not exceeding one year.
- b. Such structures will not have to meet district setbacks, but the ZA may condition the permit on providing screening for temporary structures.
- c. Temporary structures associated with construction projects (dumpsters, storage containers, temporary offices or living quarters) may remain in place as long as there is an active zoning permit.
- d. Temporary living quarters must meet State Septic rules.

3027. Utility Facilities

Applicability. The standards of this section apply to utility facilities not exempted in *Subchapter Sections 1100-1105*.

District Standards. Minimum lot size and frontage requirements will not apply to lots housing utility facilities.

Site Security. Utility facilities must be designed and maintained to prevent unauthorized access as necessary to protect public safety.

Screening Requirements. A site housing a utility facility must meet the screening requirements of Subsection 3106.E for utilities and service areas *including chemical toilets*.

3028. Vending and Automated Teller Machines

A landowner must obtain a zoning permit to install a vending machine or ATM outside an enclosed building. A vending machine or ATM will be considered an accessory structure/use under these regulations and subject to all applicable dimensional standards for the district.

Within the Village Business and Mixed Use districts, vending machines and ATMS must not be located between the frontline of the building and the edge of the road right of way.

Drive up vending machines and ATMs will require approval under Section 3009.

3029. Water Supply and Wastewater Disposal

All proposed development requiring a zoning permit or development approval under these regulations must conform to applicable state regulations regarding the provision of potable water and disposal of wastewater.

3030. Wetlands

Purpose. This section is intended to protect and enhance the overall quality, function and ecological health of the town's natural environment by mitigating the impact of development within wetlands and wetland buffers.

Applicability. The provisions of this section apply to all mapped wetlands and land within 100 feet of Class 1 wetlands, 50 feet of Class 2 wetlands and 25 feet of all other wetlands. Mapped wetlands will be interpreted as those shown on the most recent Vermont Significant Wetlands Inventory or as determined through a field delineation by a qualified wetland scientist.

General Standards. Development is prohibited and natural vegetation must be maintained or established within wetlands and wetland buffers except that the following may be allowed as a conditional use (see Subsection 3030.E):

- a. Public outdoor recreation and public trails will be allowed to the extent allowed in the applicable zoning district.
- b. A landowner may remove dead, diseased or unsafe trees and invasive or nuisance species, and may prune tree branches within the bottom one-third of a tree's height within the wetland or wetland buffer.

- c. A landowner may use the vegetation within the riparian buffer in conjunction with green stormwater infrastructure (GSI) practices provided that such practices will not significantly compromise the resource protection functions of naturally vegetated riparian buffers.
- d. Water-dependent structures or uses, streambank or shoreline stabilization projects, and any development authorized by a state permit will be allowed within a wetland or wetland buffer to the extent allowed in the applicable zoning district as a conditional use in accordance with Subsection 3030.E.

Nonconforming Sites. *Pre-existing development within wetlands or wetland buffers will be regulated in accordance with the following:*

- a. The pre-existing development within the wetland or wetland buffer may continue.
- b. A pre-existing building, developed site, or portion of a building or site within a wetland or wetland buffer may be used for any purpose allowed in the zoning district provided that there will be no extension of the development footprint within the wetland or wetland buffer.
- c. Redevelopment and new construction may be allowed within the footprint of any existing impervious surface within the wetland or wetland buffer.
- d. Conditional use in accordance with Subsection 3030.E will be required if the applicant is proposing construction, new impervious surface or other physical modifications to the site or structure(s) that have the potential to adversely impact the natural functions of the wetland or wetland buffer.

Conditional Use Criteria. *In addition to all other applicable criteria of these regulations, an applicant seeking conditional use approval for development or redevelopment within wetlands or wetland buffers must demonstrate that:*

- a. The proposed land development cannot reasonably be accommodated on any portion of the lot outside the wetland or wetland buffer.
- b. The footprint of the proposed land development within the wetland or wetland buffer is the minimum necessary to accommodate the proposed use or structure.
- c. The proposed land development will not have new or greater (as compared to existing conditions) adverse impact on the natural functions and quality of the wetland and wetland buffer.
- d. There will be (listed in order of preference):
 - i. *No net increase in impervious surface within the wetland or wetland buffer;*
 - ii. *A de minimis increase in the amount of impervious surface within the wetland or wetland buffer; or*
 - iii. *Mitigation for any additional impervious surface within the wetland or wetland buffer. Preferred mitigation is creation of a wetland area contiguous with the subject wetland that is equivalent or greater in size than the area to be impacted by proposed development. The Development Review Board may require the applicant to submit a professionally prepared environmental impact assessment and mitigation plan.*

- e. The applicant has contacted the Vermont Department of Environmental Conservation for a determination of whether a state wetland permit is required and, if required, has obtained or intends to obtain a state permit. If a state permit is required but has not been obtained, the Development Review Board must condition any approval on the applicant providing a copy of the state permit prior to the Administrative Officer issuing a zoning permit for the proposed development.

3100. Site Design and Performance Standards For Commercial and Multi-Family Development

3101. Landscaping

Purpose. The provisions of this section are intended to:

- a) Enhance the appearance and quality of development in Londonderry;
- b) Provide shade, and reduce heat and glare;
- c) Control soil erosion and stormwater runoff;
- d) Visually Screen potentially incompatible land uses and utilitarian site features; and
- e) Calm traffic, and improve pedestrian safety and comfort.
- f) To protect the character of the area subject to proposed development

Commented [WG22]: LOTS cut from the landscaping section.

Applicability. Proposed development subject to major site plan review(see Subsection 4304.C) or major subdivision approval, including planned unit developments, ~~must~~ ~~may be required to~~ provide landscaping in accordance with the provisions of this section.

General Standards. All landscaping required under these regulations must conform to the following:

Landscaping : may be required

- as a buffer between commercial and residential land uses
- as a buffer between commercial land uses and streets.

To:

- Conceal loading and service areas.
- Conceal dumpsters and recycling areas
- Conceal outdoor storage areas.
- Conceal Heavy equipment and dump trucks
- Lessen the visual impact of large buildings or parking areas

Lanscaping Plan: For proposed projects subject to Major Site Plan review or Major Subdivision Review, a plan for all proposed landscaping may be required.

Preserving Existing Landscape Features: Applications should preserve existing ground cover and trees, especially trees that are mature or determined to be of special horticultural or landscape value where feasible.

Screening: Screening is landscaping or fencing that is designed to block or obscure a particular element or use from view. Vegetative screening should be 5 feet tall, and must be functional when installed, and not rely on elements that will grow to fill a space. Fences used for screening must be completely opaque between the height of 1 and 5 feet above the ground.

Sight Triangle Trees, shrubs, hedges, fences and walls, must not obscure vision above a height of 3 feet within the 30-foot sight triangle of an intersection

Waiver. An applicant may request that the Development Review Board waive or modify screening requirements upon demonstrating that physical characteristics of the subject property (e.g. change in grade between development site and neighboring properties or distance between the development site and neighboring properties) are adequate to achieve the purposes of this section.

Landscaping Large Structures: Landscaping may be required to interrupt the facades of buildings, expanses of parking, visually reduce the scale and bulk of large buildings, integrate the site with surrounding landscape and to enhance environmental quality (e.g., wildlife habitat, soil stabilization, storm water retentions, air quality, energy conservation).

f. **Green Stormwater BMPs.** Londonderry strongly encourages applicants to design ~~front yard~~ landscaping to also function as green stormwater best management practices (BMPs).

i.

Landscaping Maintenance: Landscaping must be maintained in an attractive, healthy condition ~~and as shown on the approved plans. The DRB may require bonding or surety to ensure installation and maintenance.~~

:

- **Landscape Plan.** Applicants must ~~may be required to~~ submit a landscape plan prepared by a qualified professional. Landscape plans must consist of mixed, layered plantings of trees, shrubs and ornamental plants selected based on site conditions and plant function.
- **Plant Materials.** ~~Plant materials must meet the specifications in Figure 3-05.~~ Londonderry strongly encourages use of native species and prohibits the intentional use of invasive, nuisance or noxious species as identified by the Vermont Agency of Agricultural and the Vermont Agency of Natural Resources. ~~Applicants are encouraged to refer to the *Vermont Tree Selection Guide* published by the Vermont Urban and Community Forestry Program to identify trees suitable for a given site. Ash trees and other species particularly vulnerable to pests or disease should be avoided.~~
- **Performance Bond.** If landscaping cannot be installed at an appropriate stage in the construction due to time of year or unusual weather conditions, the applicant may install the landscaping within 6 months of the end of construction. The applicant must ~~may be required by the DRB to~~ submit a performance bond to ensure that landscaping will be installed in accordance with the approved plans. The performance bond will be held until the landscaping is completed.
- **Planting and Maintenance.** Landscaping must be:
 - ii. Installed in accordance with accepted nursery and horticultural standards;*

- iii. *Watered as necessary for at least one growing season after installation;*
- iv. *Mulched as appropriate to retain soil moisture and prevent soil erosion or compaction, but not to a depth greater than 3 inches;*
- v. *Maintained in an attractive, healthy condition and as shown on the approved plans as follows:*

1. Dead or dying plants must be replaced within one growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-05.
2. Invasive, nuisance, noxious and other "volunteer" plants or weeds must be removed.
3. Trash and debris must not be allowed to accumulate in landscaped areas.
4. Plants must be pruned or cut back as called for in the approved plans and in accordance with accepted nursery and horticultural standards.

g. *Inspection.* The Development Review Board may require that the Administrative Officer inspect the site to determine that the plant materials are healthy and that the landscaping is functioning as intended after several growing seasons as a condition of approval. An inspection is recommended when landscaping is integral to ensuring that the proposed development performs as approved (such as within green stormwater infrastructure or riparian buffers, or where there is a specific screening or aesthetic concern, for example).

i. **Planting Specifications**

Plant Material	Maximum Crown/Spread (at maturity)	Maximum Height (at maturity)	Minimum Size (at planting)	Minimum Height (at planting)	Minimum Soil Volume (per plant)	Equivalent Planting Units
Large Tree	40 ft or more	50 ft or more		6 ft for multi-trunk	1,000 cf	1.0
Medium Tree	<40 ft	30 ft or more	2½ in caliper for single-trunk deciduous		500 cf	0.8
Small Tree	n/a	<30 ft		deciduous & evergreen	250 cf	0.6
Large Shrub	8 ft or more	8 ft or more	#3 container	30 in	120 cf	0.5
Medium Shrub	<8 ft	4 ft or more	#2 container	24 in	60 cf	0.3
Small Shrub	n/a	<4 ft	#1 container	18 in	15 cf	0.1

Notes

Minimum soil volume will not include any soil below 4 feet in depth (ex. 1,000 cf could equal an area 20' wide by 25' long by 2' deep or an area 10' wide by 25' long by 4' deep).

Minimum soil volume per plant may be reduced by 40% for planting areas landscaped with multiple plants that are not less than 8 ft in any dimension.

Existing, healthy, mature plant materials that will be preserved may be counted towards landscaping requirements at a rate of 120% of the applicable equivalent planting units.

Perennial ornamental plants may be substituted for not more than 30% of the total number of required plants at a rate of 0.1 equivalent planting units. Minimum size at planting must be a #1 container or equivalent.

Front Yard Standards. *Proposed development must provide landscaping between the edge of the road right of way and the frontline of the principal building unless the principal building is or will be constructed to or within 1 feet from the edge of the sidewalk in accordance with the following:*

- h. **Location.** Front yard landscaping must be provided between the edge of the road right of way and the frontline of the principal building to:

 - vi. *Highlight and enhance entrances to the site and/or free-standing signs located within the front setback;*
 - vii. *Provide direction to and enhance building entrances;*
 - viii. *Provide visual breaks along blank building facades;*
 - ix. *Enhance and shade sidewalks and walkways;*
 - x. *Screen parking areas or other utilitarian site elements; and/or*
 - xi. *Intercept and filter stormwater runoff.*
- i. **Specifications.** Front yard landscaping must conform to the planting specifications in Figure 3-05.
- j. **Quantity.** Front yards that are 20 feet or more deep must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 30 feet of lot frontage (exclusive of street trees). Front yards that are less than 20 feet deep must be landscaped with not less than 1.0 equivalent planting unit (EPU) for every 60 feet of lot frontage (exclusive of street trees).
- k. **Green Stormwater BMPs.** Londonderry strongly encourages applicants to design front yard landscaping to also function as green stormwater best management practices (BMPs).

Streetscape Standards. *Proposed development must provide street trees along existing and proposed roads in accordance with the following:*

- l. **Location.** Street trees must be planted as follows:

 - xii. *Within 5 feet of the edge of the road right of way unless otherwise recommended by the Road Foreman or VTrans District Permit Coordinator as applicable; and*
 - xiii. *In a planting strip or a tree well that is not less than 5 feet in any dimension unless otherwise recommended by the Road Foreman or VTrans District Permit Coordinator as applicable.*
- m. **Specification, Size and Spacing.** Street trees must conform to the planting specifications in Figure 3-05, and be sized and spaced as follows:

 - xiv. *Where there are no existing or proposed overhead utility lines, street trees must be large trees.*
 - xv. *Where there are existing or proposed overhead utility lines with at least 35 feet of*

vertical clearance, street trees must be medium trees.

xvi. *Where there are existing or proposed overhead utility lines with less than 35 feet of vertical clearance, street trees must be small trees.*

xvii. *Street trees must be planted with a reasonably even, linear spacing as specified below:*

1. Large trees must be planted at a minimum ratio of one for every 50 feet of frontage.
2. Medium or small trees must be planted at a minimum ratio of one for every 30 feet of frontage.

xviii. *The Development Review Board may modify the above requirements and allow the applicant to:*

1. Plant medium or small trees if buildings or other obstructions will conflict with large trees as they mature;
2. Shift the spacing and/or size of street trees to accommodate site features, underground utilities or maintain sight distance.

n. **Preservation of Existing Trees.** Londonderry strongly encourages preservation of existing, healthy, mature trees. The Development Review Board may waive the location, spacing and alignment standards above to allow existing healthy trees within 15 feet of the edge of the road right-of-way to meet street tree requirements.

Parking Area Standards. *Proposed development must landscape existing and proposed off street surface parking areas in accordance with the following:*

o. **Small Parking Lots.** *Parking areas with less than 30 spaces may be landscaped solely along the perimeter of the parking area.*

p. **Large Parking Lots.** *Parking areas with 30 spaces or more must incorporate one or more landscaped planting islands within the parking area. Parking lot landscaping must be located to:*

xx. *Provide visual breaks within or along rows of parking;*

xx. *Shade parking spaces, sidewalks and walkways;*

xxi. *Screen parked vehicles from view at the road and from adjoining properties; and/or*

xxii. *Intercept and filter stormwater runoff.*

q. **Planting Islands.** *Planting islands must:*

xxiii. *Be not less than 8 feet in any dimension; and*

xxiv. *Equal an area that is not less than 15% of the total area of parking spaces (excluding access aisles).*

- r. **Specifications.** Parking area landscaping must conform to the planting specifications in Figure 3-05.
- s. **Quantity.** Parking areas visible from the road must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 5 parking spaces. Parking areas located behind buildings or otherwise screened from the road must be landscaped with not less 1.0 EPU for every 10 parking spaces.
- t. **Expansion of Pre-Existing Parking Areas.** Applicants proposing to expand an existing parking area, must bring the entire parking area (existing + new spaces) into conformance with the landscaping requirements of this section.
- u. **Green Stormwater BMPs.** Londonderry strongly encourages applicants to design parking area landscaping to also function as green stormwater best management practices (BMPs).

3102.COMMERCIAL Outdoor Lighting

Purpose. The provisions of this section are intended to:

- a) Ensure that outdoor lighting is designed to maintain safety and security;
- b) Minimize the obtrusive and disruptive aspects of outdoor lighting;
- c) Reduce energy use by directing appropriate amounts of light where and when it is needed, and using energy-efficient light sources; and
- d) Prevent light trespass and glare by requiring light fixtures to be shielded and properly aimed.

Applicability. All outdoor lighting at developments subject to major site plan or major subdivision approval must be installed in accordance with the provisions of this section except for public streetlights located within public rights-of-way and low intensity light fixtures exempted in Paragraph 1101.A(19).

General Standards. All outdoor lighting must conform to the following:

- a. **Lighting Plan.** Applicants for major site plan approval (see Subsection 4304.C) must submit a lighting plan prepared by a qualified professional if outdoor lighting will be altered or installed.
- b. **Shielding.** All outdoor light fixtures not exempted in Subchapter Sections 1100-1105 must be shielded as specified below. Shielded fixtures must be installed and maintained in such a manner that the shielding is effective.
 - Light fixtures with an initial output greater than 3,000 lumens must be both fully shielded and full cut-off; and
 - Light fixtures with an initial output of 3,000 lumens or less must be fully shielded but do not have to be full cut-off.
- **Spot Light Aiming.** Light fixtures containing spot or flood lamps must be aimed no higher than 45° above straight down. Use of flood or similar high intensity lighting is discouraged unless aimed at a flag, or an architectural feature such as a church steeple.

i. .

c. **Total Output**

- i. *Total output from all light fixtures on a site must not exceed:*
 1. *2.5 lumens per square foot of developed lot area in the Village Business, Village Mixed Use, General Business and Recreation districts; or*
 2. *1.25 lumens per square foot of developed lot area in all other districts.*
- ii. *For lots 2 acres or less in area, total lot area may be substituted for developed lot area for the purposes of calculating total light output allowed on the property.*

- d. **Uniformity.** Outdoor lighting ~~must~~ should be designed to provide a uniform distribution of light in areas regularly traversed by ~~vehicles~~ or pedestrians. ~~Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are prohibited.~~
- e. **Energy Efficiency.** Light fixtures with an initial output greater than 2,000 lumens must have a lamp efficacy of at least 60 lumens per watt (most LED and some fluorescent bulbs will meet this LPW standard) or must be controlled by a motion sensor.
- f. **Freestanding Lights.** Freestanding light fixtures:
 - i. *Must not exceed 30 feet in height in the General Business and Recreation districts, and 24 feet in height in all other districts. Use of fixtures not more than 12 feet in height is encouraged to light walkways and other pedestrian-oriented spaces.*
 - ii. *May be located within front setbacks, but are prohibited within side or rear setbacks unless lighting driveways, parking areas or other facilities shared between adjoining lots.*
- g. **Glare and Light Trespass.** Outdoor light fixtures must be located, oriented and shielded as necessary to prevent glare and light trespass on adjacent property or rights-of-way.
- h. **Internally Illuminated Architecture and Signs.** *The initial lamp output of any architectural element (ex. wall, fascia or canopy edge) or sign that is internally illuminated will be included in the calculation of lumens per square foot on the site. Internally illuminated architecture and signs should be carefully examined by the DRB for potential light trespass.*
- i. **Time Limits.** Outdoor lighting must be extinguished by 10 p.m., unless otherwise established by the Development Review Board through site plan review upon finding the lighting necessary to accommodate a use occurring after 10 p.m., to protect public safety or to secure the property. The Development Review Board may further limit when outdoor lighting may be used, or require use of timers or sensors, as deemed necessary to achieve the purposes of this section and protect the character of the area.

Special Use Lighting. There are additional lighting standards for the following uses:

- a. **Recreation Facilities.** Lighting for outdoor recreation facilities must conform to the following:
 - i. *Lighting for outdoor recreation facilities will be exempt from the lumens per square foot limit specified in Paragraph 3102.C(3) provided that the facility lighting is designed to achieve no greater than the minimal levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).*
 - ii. *Light fixtures must be fully-shielded or use internal and/or external louvers or shields to minimize off-site glare and light trespass.*
 - iii. *Light fixtures must be installed and maintained with aiming angles that permit no greater than 5% of the light emitted by each fixture to project above the horizontal.*
 - iv. *All lighting must be extinguished within 30 minutes of the cessation of facility use. The Development Review Board may further limit when outdoor lighting may be used as deemed necessary to achieve the purposes of this section and protect the*

character of the area.

b. Sales Lots. Lighting for the display area of a sales lot:

- i. *Must be fully-shielded.*
- ii. *Will be exempt from the lumens per square foot limit specified in Paragraph 3102.C(3) provided that:*

- 1. *The total light output does not exceed 60 lumens per square feet of display area.*
- 2. *The lights are only illuminated when the establishment is open to customers.*

c. Fueling Station Canopies. Lighting for fueling station canopies:

- i. *Must be fully shielded and use flat lenses if mounted on or recessed into the lower surface of the canopy.*
- ii. *Must not exceed a total light output of 60 lumens per square foot of canopy.*
- iii. *Will be counted towards the site's lumens per square foot limit as specified in Paragraph 3102.C(3).*

Pre-Existing Outdoor Lighting. Existing light fixtures must be included in the calculation of total light output on a site. Applicants seeking major site plan approval who are proposing to add additional fixtures must bring all existing outdoor lighting into conformance with the provisions of this section.

3103.COMMERCIAL Outdoor Use Areas

Applicability. Outdoor service, work, display, storage, eating or gathering areas associated with land uses subject to **major** site plan approval must conform to the standards of this section.

General Standards. Outdoor use areas must:

- a) Be shown on the site plan and must not be expanded beyond the area depicted unless the site plan is amended in accordance with these regulations;
- b) Not be located on or extend into public rights-of-way or property except as approved by the Londonderry Selectboard **or Vtrans as appropriate**;
- c) Not be located within required setbacks except as provided for in Subsection 3103.D; and
- d) **May be required by the DRB to Be screened with a fence in accordance with Subsection 3106.F and a vegetated buffer in accordance with Subsection 3106.D.** if located within 20 feet of a property line with a residential lot.

Display or Storage Areas. Outdoor display or storage areas must be designated on the site plan in accordance with the following:

- a. Display and storage areas must not be closer than 40 feet to the edge of the road right-of-way unless otherwise established by the Development Review Board through site plan review in accordance with Subsection 3103.D.

- b.** ~~In addition to the front yard landscaping required under Subsection 3101.D, the applicant must landscape the area between the road and the display or storage area with not less than 1.0 equivalent planting unit for every 1,000 square feet of display area. The Development Review Board may waive or reduce the landscaping requirements if the display or storage area will be screened as viewed from the road by existing vegetation, buildings and/or change in elevation.~~
- c.** Merchandise must not be displayed or stored within travel ways (driveways, parking aisles, sidewalks, etc.), fire lanes, loading areas, service areas, or required customer/employee parking spaces.
- d.** ~~Merchandise must be displayed in a static position at ground level (no raised, rotating or moving platforms, pedestals, ramps, mounds, etc.).~~
- e.** Any area used for display or storage must be paved. The Development Review Board may waive this requirement upon the applicant demonstrating that a non-paved surface will be suitable to accommodate the type and amount of goods, type, amount and frequency of traffic, and/or time of the year or length of time that the area will be used without causing erosion or other damage. This will include allowing for surfaces designed to function as a green stormwater practices (see Section 3024).
- f.** Any area used for display or storage will be considered an impervious surface and included in the calculation of lot coverage. The Development Review Board may waive this requirement upon the applicant demonstrating that a display or storage area has been specifically designed and will be maintained to function as a pervious surface in accordance with green stormwater practices (see Section 3024).
- g.** Any area used for the display or storage of vehicles being offered for sale will not be subject to the provisions of Section 3104 for parking lots.
- h.** See special lighting standards for sales lots in Paragraph 3102.D(2).
- i.** Applicants proposing to increase the total lot area used for display or storage by more than 2,500 square feet (to be calculated cumulatively from *effective date **of this rule**) must meet the following:

 - i. The number and width of existing access must be brought into conformance with Section 3002 unless waived or modified by the Development Review Board upon the applicant demonstrating that the redesign would adversely impact traffic circulation on the site.*
 - ii. Display or storage areas with no stormwater management (i.e., sheet flow to the road or off-site) or with failed stormwater management (i.e., catch basins no longer at proper grade to function as designed) must be brought into conformance with Section 3024 unless waived or modified by the Development Review Board upon the applicant demonstrating that he/she is proposing the best fix feasible given pre-existing site conditions.*
 - iii. Display or storage areas with no or less landscaping and screening than **may be** required under Section 3101 and Section 3106 must be brought into conformance with those requirements unless waived or modified by the Development Review Board upon the applicant demonstrating that the display area cannot reasonably be*

~~relocated outside the required buffers and that the resulting reduction in display area would unduly impact business operations.~~

Front Yard Standards. Within the Village Business, Village Mixed Use and Recreation districts, the Development Review Board may allow use of land between the building frontline and the edge of the right-of-way or sidewalk for outdoor eating and gathering and display areas for small retail goods, which will be exempt from the setback standards of the zoning district and landscaping standards of Subsection 3103.C.

Conditions of Approval. The general standards of Subsection 3103.B are minimum requirements. The Development Review Board may place limits or conditions on activities and uses outside an enclosed structure, including but not limited to, hours of operation, lighting, noise, screening and storage, as necessary to maintain the character of the area and further the purposes of these regulations.

3104. Parking and Loading Areas

Purpose. The provisions of this section are intended to:

- a) Ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding roads;
- b) ~~Avoid creating excess parking and loading areas that result in adverse impacts such as increased flooding and land consumption, and decreased water quality and pedestrian friendliness;~~
- c) Promote greening and quality design of parking and loading areas to improve stormwater performance and contribute to attractive streetscapes and property frontages in Londonderry.

Applicability. All development must provide off-street parking and all nonresidential or mixed-use development must provide loading areas in accordance with this section.

Amount of Parking and Loading Space. All development must provide an adequate amount of off-street parking and loading areas to fully meet the needs of the proposed use(s) in accordance with the following:

Minimum Number of Parking Spaces. The minimum number of parking spaces will be as specified below unless the applicant submits a professionally prepared parking study establishing the amount of parking needed:

- i. **Residential Uses:** 2 spaces per detached single-unit dwelling, two-unit dwelling or manufactured home and 1 per accessory dwelling. ~~For all other dwellings, 1 per unit plus 0.2 for each bedroom in excess of one (i.e., 1.2 for a two-bedroom unit, 1.4 for a three-bedroom unit, etc.).~~

Commented [WG23]: Fewer spaces for multi family homes is mandated by the state

- ii. **Lodging Uses:** 1.2 spaces per guest room.
- iii. **Commercial Uses:** 1 space per 500 square feet of gross floor area (does not include outdoor use areas). For uses that entirely or primarily occur outdoors, see (f) below.
- iv. **Industrial Uses:** 1 space per 1,000 square feet of gross floor area (does not include outdoor use areas). For uses that entirely or primarily occur outdoors, see (f) below.

- v. **Arts, Entertainment, Recreation, Civic, and Community Uses:** 1 space per 5 seats or 1 space per 500 square feet of gross floor area if no seats (does not include outdoor use areas). For uses that entirely or primarily occur outdoors or for uses that do not involve public assembly, see (f) below.
- vi. **All Other Uses.** The Administrative Officer will establish the minimum number of spaces for any use that does not fit into the category above based on consideration of parking demand and requirements for the proposed use or functionally similar use in Londonderry or elsewhere in Vermont.

v. **Maximum Number of Parking Spaces.** If an applicant proposes to build more than twice the minimum number of parking spaces, the Administrative Officer or Development Review Board:

- xxv. ~~Will require the applicant to submit a professionally prepared parking study establishing the amount of parking needed; and~~
- xxvi. ~~May require the applicant to designate some or all of the proposed spaces in excess of the maximum as reserve parking on the site plan. Reserve parking would not be constructed until the applicant seeks an amendment of the approved site plan and demonstrates the need for additional parking.~~
- w. **Calculation of Number of Parking Spaces.** The Administrative Officer will determine which ratio in Paragraph (1), above, applies to a proposed use. When calculating the total number of spaces, any decimal will be rounded up to the nearest whole number. On lots with multiple units or uses, the number of spaces for all units and/or uses may be added together before rounding up any decimal.
- x. **Modification of Number of Parking Spaces.** The Development Review Board may decrease the amount of off-street parking required if:
 - xxvii. *The applicant submits a parking study prepared by a qualified professional demonstrating the amount of parking that will be needed;*
 - xxviii. *The applicant meets the requirements for shared parking in Subsection (D) below; or*
 - xxix. *The applicant demonstrates that there is adequate on street or public parking available within 1,000 feet of the proposed development (as measured along the sidewalk or walkway) to meet all or a portion of the non residential parking demand.*

Loading Areas

- i. All development that generates regular deliveries/shipments by truck or that serves customers/guests who arrive/depart by bus must provide adequate off-street loading areas.
- ii. Applicants for fueling stations, storage and distribution, transportation services, waste services and other uses that involve trucking activity or will be regularly serviced by a trailer truck ~~must~~ **may be required by the DRB to** submit an engineered site plan demonstrating that the proposed site design makes

adequate provision for all necessary truck movements. Designs requiring backing trucks in from or out onto a public road is prohibited.

iii. *The Development Review Board may waive the requirement for on-site loading areas in the village districts upon the applicant demonstrating that delivery vehicles or buses can serve the proposed use by parking safely and legally in the road right-of-way in a location that is not more than 500 feet from the proposed use.*

Shared or Off-Site Parking. *The Development Review Board may approve a shared or off site parking plan in accordance with the following:*

y. *Unless the applicant submits a parking study prepared by a qualified professional establishing the number of spaces, the minimum number of shared spaces will equal the greater of:*

xxx. *The minimum number of spaces needed for residential or lodging uses plus 10% of the minimum number of spaces needed for other nonresidential uses based on Paragraph 3104.C(1), or*

xxxi. *The minimum number of spaces needed for nonresidential uses (excluding lodging) plus 50% of the minimum number of spaces needed for residential and lodging uses based on Paragraph 3104.C(1).*

z. *The applicant must submit plans showing the location of the use(s) or structure(s) for which shared or off site parking will be provided and the location of the parking.*

aa. *Unless shuttle service is provided, the parking must not be more than 1,000 feet from the building(s) served and they must be connected by a pedestrian walkway.*

bb. *The applicant must record a written agreement between the owners and lessees, executed for a minimum of 20 years, in the town's land records. Should the use(s), parties involved, and/or terms of the agreement change in a manner that would alter the amount of parking provided or required, the agreement must be revised, re approved and re recorded in accordance with this section. Should the agreement expire or otherwise terminate, the use(s) for which the shared or off site parking was provided will be considered in violation of these regulations unless replacement parking is provided.*

Location Standards. *Off-street surface parking and loading areas must be located as follows:*

- ee. Required parking and loading areas must be located on the same lot as the use or structure they serve unless a cooperative parking plan is approved ~~in accordance with Subsection (D) above~~. **By the DRB.**
- dd. Parking and loading must only occur on those portions of the lot indicated for such use on the approved site plan.
- ee. Required parking and loading areas must be located on the lot in accordance with the following:

xxxii. Parking areas must meet district minimum setback requirements except that:

1. Shared parking areas may be located within a common side or rear setback provided that a cooperative parking plan is approved in accordance with Subsection (D) above.

xxxiii. The portion of the lot between the frontline of the principal building and the road may only be used for parking as follows:

1. Existing parking between the frontline of the building and the road may be repaired, maintained, redesigned and/or reconstructed provided that there is no net increase in the number of parking spaces or amount of impervious surface.
2. For lots fronting on Route 11 or Route 100, no additional parking between the frontline of the building and the road will be allowed.
3. On all other properties, not more than 10 parking spaces may be located between the frontline of the building and the road.
4. The Development Review Board may waive or modify the standards of this subparagraph upon the applicant demonstrating that adequate parking cannot be located to the rear or side of the building ~~due to either physical constraints on the property or functional requirements of the business.~~

*xxxiv. No provisions of these regulations will be interpreted to prohibit parking of registered, operable motor vehicles ~~within a residential driveway~~ **on residential property**.*

xxxv. Loading areas must be located to the side or rear of building they serve, except this provision will not apply to:

1. Lots in the General Business District that do not front on Route 11 or Route 100; and
2. Passenger loading/unloading areas.

Dimensional Standards. *Off-street parking and loading areas must conform to the following:*

- a. **Parking Spaces.** Off-street parking spaces must not be less than 9 feet wide by 18 feet deep. Each space must be accessible from a driveway or access aisle except for:
 - i. Spaces serving a single-unit or two-unit home; or
 - ii. ~~Tandem parking (a double depth parking space with one vehicle blocking the other) approved by the Development Review Board.~~
- b. **Access Aisles.** The access aisles within a parking lot or structure must be not less than 20 feet wide.
- c. **Loading Areas.** Loading areas:

- i. Serving single-unit trucks must have an overhead clearance of at least 10 feet and must be not less than ~~10~~ 14 feet wide and 20 feet long, exclusive of access and maneuvering area.
- ii. Serving tractor trailer trucks or buses must have an overhead clearance of at least 14 feet and must be not less than 12 feet wide and 50 feet long, exclusive of access and maneuvering area.
- d. **Turnarounds.** All off-street parking and loading areas must be designed so that vehicles can enter and exit the property without backing out onto a road right-of-way except for parking that serves a single-unit or two-unit dwelling.

Design, Construction and Maintenance Standards. Off-street surface parking and loading areas subject to site plan approval must conform to the following:

- a. **Surface.** Off-street parking and loading areas must provide a level surface appropriate for the anticipated level of use in all seasons.
- b. **Layout.** Perpendicular (90 degree) parking is required unless the applicant demonstrates that due to site-specific conditions angled parking will allow for more efficient site design and compact development footprint. The Development Review Board may modify the dimensional standards in Paragraph (F) above for angled parking spaces and associated aisles.
- c. **Erosion and Drainage.** Off-street parking and loading areas must be surfaced, graded, drained and maintained to properly dispose of all stormwater runoff and minimize erosion in accordance with the provisions of Sections 3012 and Section 3024. Run-off and/or eroded surface materials must not discharge to adjacent roads, properties or surface waters.
- d. **Markings.** ~~Parking areas with more than 10 spaces must demarcate the parking spaces. The markings must be kept clearly visible and distinct. Accessible parking spaces must be marked and signed in accordance with state and federal requirements.~~
- e. **Screening.** Off-street parking areas and loading areas must be screened as follows:
 - i. *Parking areas located within 20 feet of a property line with a residential lot must be screened with a fence in accordance with Subsection 3106.F and or a vegetated buffer in accordance with Subsection 3106.D.*
 - ii. *Loading areas located within 20 feet of a property line with a residential lot must be screened in accordance with Subsection 3106.E.*
- f. **Landscaping.** Off-street parking areas must be landscaped in accordance with Subsection 3101.F.

Snow Removal. Snow storage areas must be shown on the site plan in accordance with the following:

xxxxi. ~~Applicants must demonstrate that an area equivalent to at least 10% of the area from which snow will be removed is available on the site for snow storage or, if an adequate area does not exist, that snow will be removed from the site.~~

xxxxvii. *Snow must not be pushed into public right-of-way, adjoining properties or surface waters.*

xxxviii. *Snow must not be stored within buffers, landscaped areas or stormwater infrastructure unless those features are specifically designed for that purpose.*

xxxix. *If the parking area has more parking spaces than the minimum required for the use under this section, snow may be stored on the excess spaces provided that:*

1. *No snow is stored within drive aisles; and*
2. *Stormwater management practices are adequately sized and appropriately designed to accommodate the resulting meltwater flow in excess of the typical flow from the parking area.*
 - ff. **Accessible Parking.** Development must provide accessible parking in accordance with applicable state and federal regulations. Accessible spaces will count towards the minimum parking required under this section. The Development Review Board may waive or modify the standards of this section when necessary to comply with state or federal accessible parking requirements.
 - gg. **Electric Vehicle Charging.** Electric vehicle charging stations may be provided within off-street parking areas as an allowed accessory use in any zoning district. Additional parking will not be required when parking spaces are converted and/or reserved for charging vehicles and such spaces will count towards the minimum parking required under this section. Commercial EV charging stations should be as far from residential uses as possible, and the DRB may require limits on charging vehicles at night on lots that adjoin a residential use.
 - hh. **Parklets and Outdoor Dining.** The Administrative Officer may approve site plan amendments allowing property owners to convert off-street parking spaces to ~~small seating spaces or greenspace~~ or outdoor dining space. Additional parking will not be required when parking spaces are converted provided that the approval is conditioned on the applicant fully meeting their parking demand on-site.
- ii. **Maintenance.** Parking and loading areas must be maintained in good condition, free of weeds, dust, trash and debris, and appropriately surfaced and graded to prevent erosion, sedimentation and runoff.

jj. **Resurfacing of Pre-Existing Parking and Loading Areas.** *Parking and loading areas that are being resurfaced must meet the following:*

xl. *For the purposes of this paragraph, resurfacing will mean applying a new layer of surface material over more than 25% of the surface area in any calendar year.*

- xli. The number and width of existing access must be brought into conformance with Section 3002 unless waived or modified by the Development Review Board upon the applicant demonstrating that the redesign would result in a loss of parking spaces below the number required under Subsection 3104.C.*
- xlii. Parking areas with no stormwater management (i.e., sheet flow to the road or off site) or with failed stormwater management (i.e., catch basins no longer at proper grade to function as designed) must be brought into conformance with Section 3024.*
- xliii. For lots fronting on Route 11 or Route 100, parking or loading areas between the front line of the building and the road with no or less landscaping than required under Subsection 3101.F must be brought into conformance with landscaping requirements unless waived or modified by the Development Review Board upon the applicant demonstrating that providing landscaping would result in a loss of parking spaces below the number required under Subsection 3104.C or would adversely impact traffic circulation on the site.*

3105. Performance Standards For Commercial and multi Family housing Developments

Purpose. The provisions of this section are intended to protect the character of and quality of life in Londonderry by preventing proposed development from creating or contributing to adverse off-site impacts that interfere with the reasonable use and enjoyment of nearby property.

Applicability. The provisions of this section apply to all development subject to site plan approval.

Noise. Noise emanating off-site must be muffled, must not be distinct from the background sound level beyond the property line, and must not interfere with the reasonable use and enjoyment of nearby property. The Development Review Board may place specific limits on noise levels and hours of operation as deemed necessary to protect the character of the area. Unless otherwise established by the Development Review Board through site plan review, sound levels must not exceed a continuous weighted average of 70 dBA and a maximum of 120 dBA in any one-hour period as measured from a single, stationary location beyond the property line.

Glare and Light Trespass. Lighting must not be used in such a manner that it produces glare or light trespass on roads or nearby property. Arc welding, acetylene torch cutting or similar processes must be performed so as not be **visible a hazard** from any point beyond the property line.

Odors. Emission of **non-agricultural** odors that are readily detectable without special instruments at any point beyond the property line and that interfere with the reasonable use and enjoyment of nearby property is prohibited.

Particulate Matter and Airborne Solids. Generation of dust, dirt, fly ash or other airborne solids that accumulate at any point beyond the property line is prohibited except when related to approved construction or extraction activities. Generation of smoke or particulate matter **beyond the property line** that interferes with the reasonable use and enjoyment of nearby property is prohibited.

Temperature and Moisture. Release of heat, cold, moisture, mist, fog, precipitation or condensation that is readily detectable without special instruments at any point beyond the property line and that interferes with the reasonable use and enjoyment of nearby property is prohibited.

Vibration. Vibration that is easily discernible without special instruments at any point beyond the property line is prohibited. This will not apply to vibration caused by motor vehicle, train or aircraft traffic or during construction. The Development Review Board may approve greater vibration levels for a specified period, frequency and purpose as appropriate to the proposed development and location.

Electrical or Radio Interference. No use or process must create interference with electrical, radio or other communication signals beyond the property line.

Waste and Material Storage. Storage of wastes or materials in a manner that attracts insects or rodents, or otherwise creates a nuisance or health hazard is prohibited. Applicants must show the location of waste or materials storage facilities (including, but not limited to dumpsters) on the site plan and must screen such facilities in accordance with Subsection 3106.E. **For rules on on-site composting see section 3108.**

Storage Tanks. Storage tanks must be installed, maintained, decommissioned and removed in accordance with state and federal regulations, including reporting of leaks and spills. Storage tanks (above and below ground) must not be located within district setbacks, riparian buffers, wetlands or wetland buffers. Applicants must show the location of any proposed storage tanks on the site plan and must screen above ground tanks in accordance with Subsection 3106.E.

Flammable, Toxic or Hazardous Substances and Wastes. Flammable, combustible or explosive materials must be stored and handled in conformance with state and federal regulations. Such materials must be securely stored within an enclosed building or tank. Toxic or hazardous substances or wastes must not be released into the environment so as to cause contamination of any potable water supply, sanitary sewer or septic system, watercourse or water body, soil or air except as specifically permitted by the Vermont Agency of Natural Resources. See Section for specific use standards for tank farms or fuel storage and distribution.

3106. Screening

Commented [WG24]: Moved to landscaping section

Purpose. The provisions of this section are intended to maintain and improve the character and quality of life in Londonderry by providing:

- kk. A landscaped buffer between incompatible land uses; and
- ll. Attractive screening of proposed development and site elements that would create or contribute to visual clutter and distraction.

Applicability. The provisions of this section apply to any development that requires major site plan approval (see Subsection 1304.C) and are minimum requirements for screening. The Development Review Board may require additional screening as deemed necessary to protect the character of the area and mitigate the impact of incompatible land uses.

General Standards. All landscaping required under this section must also conform to the general standards in Subsection 3101.C and the specifications of Figure 3-05.

Side and Rear Yards. Applicants must maintain or establish a vegetated buffer ~~or 6 foot tall fence~~ along any side and rear lot lines that abut a residential lot or a lot in another zoning district. No buffer will be required if the abutting property is under common ownership with the subject lot.

Utilities and Service Areas. Utility boxes, pump stations, substations, off street loading areas, trash storage and recycling areas, outdoor storage areas, antennas and satellite dishes, mechanical equipment, portable toilets and similar above ground utility or service site elements will be visible from all state or town highways must be screened from view with a ~~6 foot tall fence or~~ vegetated buffer.

Vegetated Buffers. A vegetated buffer must not be less than 10 feet in any dimension and must be landscaped with (see Figure 3-05):

- mm. Not less than 1.5 equivalent planting units (EPUs) for every 10 feet, if not combined with a fence or berm.
- nn. Not less than 0.8 EPUs for every 10 feet, if combined with a fence or berm.

Berms and Fences. *Berms and fences used for screening must conform to Section 3013. When landscaping will be combined with a berm or fence for screening, the landscaping must be principally located and oriented to the property line. Fences used for screening must be completely opaque between a height of 1 and 5 feet above the ground.*

Waiver. *An applicant may request that the Development Review Board waive or modify screening requirements upon demonstrating that physical characteristics of the subject property (e.g. change in grade between development site and neighboring properties or distance between the development site and neighboring properties) are adequate to achieve the purposes of this section.*

3107.Signs

Purpose. *By encouraging the orderly and appropriate design, scale and placement of signs, the provisions of this section are intended to:*

- i. Protect public safety, including but not limited to, safe pedestrian and vehicular travel;
- ii. Encourage the use of street graphics that are compatible with the community's rural, small town character;
- iii. Promote effective identification, communication and wayfinding; and
- iv. Maintain and enhance an attractive visual environment that fosters a healthy economy.

Applicability. *All signs must be designed and installed in accordance with the provisions of this section. A landowner must obtain a zoning permit before any sign is erected, enlarged, replaced, reworded, redesigned or altered in any way except as specifically exempted in Subsection 3107.C.*

Exempt Signs. *The following signs are not subject to these regulations and do not require a zoning permit provided that they are not designed or installed in a manner that would cause them to be prohibited under Subsection 3107.D:*

- a. Public signs or notices erected or required by a government entity.
- b. Signs that are exempt from state regulation under 10 V.S.A § 494 (such as welcome signs, official traffic control signs, legal notices, hazard warning signs, and municipal information and guidance signs).
- c. Historic markers approved under Vermont's State Historic Site Marker program.
- d. Permanent plaques, cornerstones, nameplates and other building identification markings that are integral parts of the structure.
- e. Unlit, temporary signs as follows:
 - i. *A temporary sign must not be more than 6 feet in height if free-standing or if mounted to an approved free-standing pole or monument sign.*
 - ii. *The total area of all temporary signs displayed on the parcel at one time must not exceed 24 square feet of signable area.*

Commented [WG25]: •Unlit temporary signs for a commercial enterprise may be displayed at the location of the business. Unlit temporary signs for nonprofit organizations or a community event may be displayed on any property with the permission of the property's owner.q

- iii. *Temporary signs must not be located within a public right-of-way or mounted on a utility pole. Banners may be hung over a public right of way with permission from the selectboard or Vtrans as appropriate.*
- iv. *An establishment may display one or more temporary signs for not more than 14 contiguous days and then must not display any temporary signs for at least 90 days. Signs not meeting this limitation on display duration will require a zoning permit as a permanent sign in accordance with the provisions of this section. For sandwich board signs, see 3107.L.*
- f. Noncommercial flags. *See Section 3003 if installing a flagpole.*
- g. Not more than one “open” flag or window sign per establishment that is not:
 - i. *Displayed when the establishment is closed (flags must be brought in or window signs must be turned off);*
 - ii. *Combined with advertising of a product or service available on the premises;*
 - iii. *A window sign more than 6 square feet in area;*
 - iv. *A flag more than 15 square feet in area; and*
 - v. *A flag located so that it projects into the public right-of-way or sidewalk within a height of 8 feet from the ground or sidewalk surface.*
- h. Not more than one unlit sign per lot advertising the sale or lease of real estate by the owner or an agent that is not:
 - i. *Located within a public right-of-way or mounted on a utility pole;*
 - ii. *More than 6 square feet in area; and*
 - iii. *More than 4 feet in height.*
- i. Signs incorporated into machinery or equipment by a manufacturer or distributor, which provide instruction or identify only the product or service dispensed by the machine or equipment.
- b) Existing signs which may not otherwise meet the requirements of this section may be allowed to remain upon a finding that the sign has distinctive artistic and/or cultural merit which will contribute significantly to the character of the area and the community

Prohibited Signs. *The following signs are prohibited:*

- a. Signs placed on any public property or in any public right-of-way, except for public signs or notices erected or required by a government entity, and signs that are exempt from state regulation under 10 V.S.A § 494.
- b. Off-premise commercial signs.
- c. Abandoned commercial signs (see Paragraph 5003.S(3)).
- d. Signs illuminated by, composed of, or containing flashing, intermittent, rotating or moving lights, *except for electronic message signs in conformance with this section.*

- e. Signs that are composed of or incorporate laser source lights, searchlights or other high-intensity lights.
- f. Signs that limit drivers' sight distance, that could be confused with official highway signs or signals, that unduly distract drivers' attention, or that otherwise impair public safety. This includes signs visible from the road that mimic the appearance of official street name signs.
- ~~g. Signs that move or that incorporate any pennant, ribbon, streamer, spinner, balloon, inflatable, or other similar moving, fluttering, or revolving device, including but not limited to feather or whip signs. This provision will not apply to traditional barber pole signs advertising a barbershop.~~
- h. Signs that emit sound, except for menu signs in conformance with this section.
- ~~i. Signs that use obscene, lewd, vulgar, or indecent words or images not suitable for a general audience. In evaluating whether a sign is obscene, the Administrative Officer and Development Review Board will follow the three part standard established by the U.S. Supreme Court: (1) whether the average person, applying contemporary community standards would find that the sign appeals to prurient interest; (2) whether the sign depicts or describes, in a patently offensive way, sexual conduct, and (3) whether the sign lacks serious literary, artistic, political, or scientific value.~~
- j. Signs more than 150 square feet in area.
- k. Signs more than 16 feet in height or, if building mounted, above the building's roofline except within the General Business district in accordance with Paragraph 3107.K.
- l. Signs on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.

General Standards. All signs must be:

- a) Structurally sound.
- b) Constructed of durable, all-weather materials.
- c) Built on and attached to concrete footings or other permanent foundation if designed to be permanent and free-standing.
- d) Designed or located in a manner that would not obstruct access to any fire escape, window or door.
- ~~e) Designed or located in a manner that would not obscure architectural features such as cornices, arches, columns, etc.~~
- f) Designed or located in a manner that would not obstruct pedestrian traffic or visibility.
- g) Designed or located in a manner that would not limit drivers' sight distance, be confused with official highway signs or signals, unduly distract drivers' attention, or otherwise impair public safety.

h) With the exception of one “open” flag, all flags and banners with a commercial message on them that are displayed permanently will be treated the same as permanent sign in terms of size restrictions, and the number of signs allowed per establishment.

Wall Signs. A maximum of 1 wall sign is allowed per establishment as follows:

- a) Externally illuminated and backlit wall signs are allowed in all zoning districts in conformance with the provisions of Paragraph 3107.O.
- b) Internally illuminated and electronic message signs are only allowed in the General Business and Recreation districts in conformance with the provisions of Paragraphs 3107.R and 3107.Q.
- c) A wall sign must not exceed a sign area of 1 square foot multiplied by the width of the building facade to which it will be attached up to a maximum of 40 square feet for ground floor uses and 20 square feet for upper floor uses. If the use occupies only a portion of the building, the sign area will be based on the width of the façade associated with the establishment being advertised.
- d) A wall sign must have a signable area that is at least 12 inches and not more than 36 inches in height.
- e) A wall sign must not project more than 8 inches out from the wall and must not extend vertically or horizontally beyond the wall on which it will be mounted.

Awning Signs. Signs may be painted, printed or appliqued on any awning over a window or door as follows:

- a) Awning signs are allowed in all zoning districts.
- b) Awning signs must not be illuminated.
- c) Not more than 25% of the sloping plane or 75% of the valence of an awning may be used as a signable area.
- d) Awning sign content must be limited to the establishment’s name, logo and/or contact information (address, phone, email, website, etc.).
- e) Awnings must be mounted so that no portion is less than 8 feet above the ground or sidewalk surface below.

Window Signs. Signs may be painted, applied, or placed on the inside of windows or doors as follows:

- a) Window signs are allowed in all zoning districts.
- b) Window signs may be luminous tube, internally illuminated or electronic message signs in conformance with the provisions of Paragraphs 3107.R and 3107.Q.
- c) Window signs must only be illuminated when the associated business is open.

- d) For each business, there shall be a maximum of one window sign which may not exceed 12 square feet in a signable area of window signage.
- e) Not more than 20% of the total glass surface combined of all windows, doors or storefronts may be used for or obscured by signage. But any amount of glass may be covered with solid colors or designs not integral to communicating the sign's message.

Free-Standing Pole or Monument Signs. A maximum of 1 free-standing pole or monument sign is allowed per lot as follows:

- a. Free-standing pole or monument signs are allowed in all zoning districts.
- b. Externally illuminated signs are allowed in conformance with the provisions of Subsection 3107.O.
- c. Except as specifically provided for in Subsections 3107.M and 3107.N, the Town of Londonderry prohibits ground-mounted or free-standing electronic message signs.
- d. Free-standing pole or monument signs must not exceed the following:
 - i. 12 square feet in signable area or 8 feet in height in the Village Business, Village Mixed Use, Village Residential and Residential districts.
 - ii. 24 square feet in signable area or 12 feet in height in the General Business and Rural districts; and
 - iii. 36 square feet in signable area or 16 feet in height in the Recreation district.
- e. Front setbacks will not apply to free-standing pole or monument signs. The minimum front setback from the edge of the right-of-way (not the edge of the road surface) for free-standing pole or monument signs will be equal to the height of the sign.

Projecting or Hanging Signs. A maximum of 1 projecting or hanging sign is allowed per establishment as follows:

- a) Projecting or hanging signs are allowed in all zoning districts.
- b) Externally illuminated signs are allowed in conformance with the provisions of Paragraph 3107.O.
- c) Internally illuminated signs are only allowed in the General Business and Recreation districts in conformance with the provisions of Paragraph 3107.R and electronic message signs are prohibited.
- d) No projecting or hanging sign may exceed 12 square feet in signable area.
- e) Signs must be mounted so that no portion projects more than 4 feet from the building wall to which it is attached.
 - oo. Signs must be mounted so that no portion is less than 8 feet above the ground or sidewalk surface below.

Roof Signs. Within the General Business district, a maximum of 1 roof sign is allowed per establishment as follows:

- a) Roof signs must not be internally illuminated.
- b) A roof sign must not exceed a sign area of 20 square feet~~1 square foot multiplied by the width of the building facade occupied by the establishment up to a maximum of 40 square feet. If the establishment also has a wall sign, the allowed sign area of the roof sign will be reduced by the sign area of the wall sign.~~
- c) A roof sign must not exceed a height of 4 feet and must not be mounted more than 2 feet above the surface of the roof.

Permanent Banners Flags, Feather signs A maximum of one “open” flag and two permanent banner, pennant or feather signs with lettering which are a maximum of :

- a. 12 square feet in signable area in the Village Business, Village Mixed Use, Village Residential and Residential districts.
- b. 24 square feet in signable area or in the General Business and Rural districts; and
- c. 36 square feet in signable area or in the Recreation district.

Sandwich Board Signs. ~~A maximum of 1 sandwich board sign is allowed per establishment as follows:~~

Commented [WG26]: Changed to 2

- a) Sandwich board signs are allowed only in the Village Business, General Business and Recreation districts.
- b) Sandwich board signs must not be illuminated.
- c) No sandwich board sign may exceed 8 square feet in signable area or 4 feet in height.
- d) Sandwich board signs must not be placed within public rights-of-way, and must not interfere with vehicular or pedestrian travel.
- e) Sandwich board signs must be weighted or anchored to prevent them from being blown or knocked over, or otherwise becoming a hazard.
- f) Sandwich board signs may only be displayed during business hours and must be removed when the establishment is closed.

Fuel Pricing Signs. A fueling station may have pricing signs as follows:

- a) Each pump may have a pricing sign mounted on it that is not more than 2 square feet in area.
- b) Pricing signs mounted on the canopy are prohibited.
- c) The station may incorporate pricing signs into a free-standing pole or monument sign or any other type of building-mounted sign.

- d) Pricing signs may be single-color changeable-copy electronic message signs in conformance with Paragraph 3107.Q provided that the message is limited solely to the fuel price.
- e) Pricing signs must not be illuminated when the establishment is not open for business.

***Menu Signs.** In addition to the signs otherwise allowed under this section, a restaurant may have menu signs as follows:*

- a) ~~One menu sign that is not more than 2 square feet in area may be mounted on the building near each public entrance.~~
- b) ~~One menu sign that is not more than 24 square feet in area and, if free standing, 6 feet in height may be mounted near each service window for restaurants with drive through or walk up service.~~
- c) ~~Menu signs may be externally illuminated.~~
- d) ~~Menu signs may be internally illuminated or electronic message signs in the General Business and Recreation district, and the Development Review Board may waive the size limitation in Paragraphs 3107.R and 3107.Q for menu signs.~~
- e) ~~Menu signs must not be illuminated when the restaurant is not open for business.~~

***Sign Lighting.** External lighting of signs must be designed and located to avoid light trespass and glare, and must conform to the following unless otherwise specified in this section:*

- a) The total light output of external fixtures illuminating a sign must not exceed 20 lumens per square foot of sign area.
- b) Fixtures used to illuminate signs must be located, shielded and aimed so that the light falls entirely on the sign ~~except as specified in Paragraph (3) below.~~
- c) ~~Signs must be lit from above, except that wall signs may be lit from below or be backlit provided that the light falls entirely on the building wall and the source of the light is fully screened.~~
- d) Sign lighting must be turned off by 10 p.m., or the close of business if later and must not be turned back on until the business reopens. The Development Review Board may further limit when signs may be illuminated as deemed necessary to achieve the purposes of this section and protect the character of the area.

***Sign Design.** Signs must be designed in accordance with the following:*

- a) ~~Permanent signs must be designed and made by a professional sign maker.~~
- b) ~~Signs must not have more than three dominant colors. Use of neon and dayglow colors as dominant sign colors is prohibited. The color palette of building mounted signs must be compatible with and complement the color palette of the building exterior.~~
- c) ~~If an establishment will have more than one sign, the style, fonts and color palette of the signs must be coordinated.~~

4) ~~Applicants are encouraged to consider designs with visually interesting and artistic elements such as two- or three-dimensional text or symbols, unique shapes, irregular outlines, and/or internal cut-outs.~~

Electronic Message Signs. *Electronic message signs must conform to the following unless otherwise specified in this section:*

- a) Electronic message signs must not exceed the lesser of 12 square feet in area or the maximum sign area specified for the sign type (free-standing, wall-mounted, hanging, projecting, etc.).
- b) Electronic message signs must be turned off when the associated establishment is closed.
- c) Electronic message signs must not flash, scroll, fade, brighten, dim, display video or otherwise be animated or create the effect of movement.
- d) The sign message must not change more than once per minute.
- e) ~~Electronic message signs that will be illuminated after dark must have their brightness adjust in response to ambient light levels. The total light output of the sign must not exceed 20 lumens per square foot of sign area after dark.~~ The Development Review Board may further limit the intensity of the sign's illumination as deemed necessary to achieve the purposes of this section and protect the character of the area.
- f) ~~Electronic message signs must be programmed so that in the event of a malfunction, the screen goes black and is not illuminated.~~

Internally Illuminated Signs. *Internally illuminated signs where allowed must conform to the following unless otherwise specified in this section:*

- a) There must not be more than one internally illuminated sign per establishment.
- b) The total light output of fixtures illuminating the sign must not exceed 40 lumens per square foot of sign area.
- c) The sign must not be illuminated when the establishment is closed.
- d) Internally illuminated signs must not exceed the lesser of 12 square feet in area or the maximum sign area specified for the sign type (free-standing, wall-mounted, hanging, projecting, etc.) in this section.
- e) ~~Internally illuminated signs must be composed of channel letters; have an opaque background and translucent text and symbols; have a colored background that is darker than the text and symbols~~
- f) Internally illuminated signs must not flash, brighten, dim, change color or otherwise be designed to appear animated.
- g) Not more than 30% of the area of an internally illuminated sign may be used for advertising a product(s) available at the establishment.

Sign Area. *Sign area will be determined in accordance with the following:*

- a. Sign area will include all the elements that serve primarily to communicate the sign's message and not the structural elements supporting or serving as a background for the sign. ~~If the support structure will be visually prominent, designed to attract attention, or otherwise integral to communicating the sign's message, it will be included in the calculation of sign area.~~
- b. Sign area will be calculated by drawing a rectangle around all the elements that serve to communicate the sign's message. The area of signs that consist of multiple elements may be calculated by drawing a separate rectangle around each element and totaling the area.
- c. Sign area will only include one side of a double-sided sign. The Administrative Officer or Development Review Board may waive or modify the sign area requirements for three-dimensional signs.
- d. The calculated area of a non-rectangular sign will be adjusted to compensate for the percentage of negative space within the sign area rectangle (negative space is the area within the rectangle not occupied by the sign or sign components) as follows:
 - i. *No adjustment if the amount of negative space within the sign area rectangle is less than 30%;*
 - ii. *A 15% reduction in the calculated area if the amount of negative space within the sign area rectangle is at least 30% and less than 50%;*
 - iii. *A 30% reduction in the calculated area if the amount of negative space within the sign area rectangle is at least 50% and less than 70%; or*
 - iv. *A 45% reduction in the calculated area if the amount of negative space within the sign area rectangle is 70% or greater.*

Sign Removal. *A commercial sign must be removed within 60 days of its associated use being changed or terminated as follows:*

- a) For conforming signs, only the message components of the sign associated with the changed or terminated use must be removed or covered, and the support components may remain.
- b) For nonconforming signs, both the message and support components of the sign associated with the changed or terminated use must be removed.

Nonconforming Signs. *Nonconforming signs will be regulated as follows:*

- a. A nonconforming sign must not be relocated unless the relocation will bring the sign into greater conformance with these regulations.
- b. The support components of a nonconforming sign may be repaired or maintained provided that there is no change in materials, dimensions or location except if the alteration will bring the sign into greater conformance with these regulations.
- c. The message components of a nonconforming sign may be repaired or maintained by replacing or repainting a sign panel, individual letters or graphics within the same sign area provided that there is no change in the sign's primary content except if:

- i. *The alteration will bring the sign into greater conformance these regulations; or*
- ii. *An establishment with a nonconforming sign undergoes a name change or change in affiliation with no other changes in operation, in which case the sign may be altered, modified or reconstructed to update the establishment name by replacing or repainting a sign panel, individual letters or graphics within the same sign area.*
- d. A nonconforming sign must be brought into conformance with these regulations when:
 - i. *There is a change in the primary content of the sign, except as authorized in Paragraph (3) above; or*
 - ii. *An applicant proposes development that requires major site plan approval (see Subsection 4304.C).*

3108. Trash, Composting and Recycling Storage Areas

Applicability. All proposed development subject to **major** site plan approval must provide trash, composting and recycling storage areas.

Exemptions. **On site** Composting of materials generated on the site is not subject to the provisions of this section. The provisions of this section will apply to compostable materials being stored for transport to an off-site facility.

Standards. **The DRB may require that** Storage areas for trash, compost and recycling must be:

1. Shown on the site plan.
2. Located within the principal or an accessory building or inside an enclosure located to the side or rear of the building they service. If not within a building, **the DRB may require that** trash, compost and recycling storage areas must be:
 - i. *Within an enclosure at least 6 feet in height that obscures all materials and/or containers stored inside;*
 - ii. **Visually** Screened in accordance with Paragraph 3106.E; and
 - iii. **Bear and rodent proof**
 - iv. *Maintained so that the enclosure's doors or gates remain closed and latched except when being accessed for deposit, maintenance, service or collection.*
3. Located outside required setbacks and parking spaces.
4. Accessible and convenient for building residents/tenants and for collection vehicles.
5. Designed with adequate space for the maintenance and servicing of containers.
6. Located on a hard surface suitable for servicing of the containers if not within a building.

3200. Specific Use Standards

3201. Applicability

The standards of this section apply to the specified uses in addition to all other applicable provisions of these regulations.

The standards of this section are minimum requirements. The Development Review Board may establish additional requirements as a condition of approval in accordance with the development review procedures of Chapter 430 (site plan review, conditional use review, etc.) and as necessary to further the purposes of these regulations and meet the review criteria applicable to the proposed development.

3202. Multi-Unit Dwellings

Commented [WG27]: More flexibility

Applicability. The provisions of this section apply to:

- New buildings that will contain 5 ~~3~~ or more dwelling units;
- Multi building developments that will contain 10 or more dwelling units within the project; and
- Existing buildings that will increase the number of dwelling units and result in 5 or more units in the building.

Open Space. *Multi-unit residential buildings must ~~may be required to~~ provide residents with outdoor space as follows:*

- a. *There must be at least 500 square feet of common open space per dwelling unit that meets the standards below. Common open space must:*
 - i. *Be located in one or more areas conveniently accessible to building residents, and no area may be less than 30 feet in any dimension;*
 - ii. *Be designed with seating areas and other passive recreation facilities to be shared by all residents;*
 - iii. *Be landscaped with trees, shrubs, groundcover and/or ornamental plants; and*
 - iv. *Include a children's play area if 30% or more of the units have three or more bedrooms.*
- b. *At least 50% of the units must include a private or semi-private outdoor living space (ex. patio, courtyard, porch, balcony) to be accessed from the dwelling unit for the exclusive use of unit residents that is at least 60 square feet in area and not less than 6 feet in any dimension.*

Bulk Storage. *The DRB may require that Each dwelling unit must include a secured, enclosed bulk storage area at least 60 square feet in area and not less than 6 feet in any dimension for the exclusive use of unit residents as follows:*

- a) *The storage area may be located within or separate from the dwelling unit.*

- b) The storage area may be located within the building or within an accessory building;
- e) If the storage area will be located within a private garage, it must be in addition to the area necessary to accommodate any required parking.

Pedestrian Access. *The DRB may require that Multi-unit residential buildings must be designed with pedestrian access from:*

- a) The sidewalk or road;
- b) Parking areas to residential entrances; and
- e) Residential entrances to service areas (ex. trash or recycling areas) and common open space areas.

Mixed-Use Buildings. *Multi-unit, mixed-use buildings must be designed so that the:*

- a) Non-residential space will not be located above residential space;
- b) Walls and/or floors that separate residential and non-residential portions of the building will be sound proofed as necessary to ensure that background noise levels inside the dwelling will not exceed 30 dBA from 10 pm to 6 am and 55 dBA at other hours;
- c) Private entrance(s) to the dwelling units will be separated from the public and service entrance(s) to the non-residential portions of the building;
- d) Impact on building residents of service and waste collection areas (noise, light, odors, etc.) serving non-residential uses will be minimized and mitigated; and
- e) Common open space, as required above, will be separated and screened from areas of the property accessible to the general public and from service areas.

3203. Rooming and Boarding House

A dwelling structure in which two or more bedrooms are offered for rent for a fixed period of not less than 30 days will be considered a rooming and boarding house under these regulations.

A rooming and boarding house must:

- a) Be located within a dwelling and/or accessory building(s) to a dwelling;
- b) Be operated by a resident of the dwelling;
- c) Provide all tenants with a private, secured bedroom for their exclusive use;
- d) Not house more than two unrelated adults per rental room;
- e) Rent rooms for a fixed period of not less than 30 days; and
- f) Provide 2 parking spaces for the single-unit dwelling and 1 parking space for each rental bedroom in accordance with Section 3104.

A rooming and boarding house may have not more than 1 sign and must conform to all applicable standards of Section 3107.

A rooming and boarding house will require site plan approval and the applicant must certify that the dwelling meets all applicable state health and safety codes unless the property was previously another use in the same use category such as a hotel or, Inn or motel.

A rooming and boarding house will be considered a multi-unit dwelling under these regulations if the rental rooms have provisions for independent living, including sleeping, food preparation and sanitation in accordance with Section 3010.

3204. Accessory Dwelling

An accessory dwelling unit (ADU) must:

- a) Be located ~~within or appurtenant to~~ on the same lot as a single-unit dwelling;
- b) Be clearly subordinate to the primary dwelling;
- c) Share a driveway with the primary dwelling;
- d) Have provisions for independent living, including sleeping, food preparation and sanitation in accordance with Section 3010;
- e) Not exceed 1,000 square feet or ~~30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;~~
- f) Meet the minimum parking requirements for residential uses of Section 3104;
- g) Meet the applicable dimensional standards of the zoning district; and
- h) Meet the water supply and wastewater disposal standards of Section 3029.
- i) *There must not be more than one ADU for each single-unit dwelling on a lot.*
- j) *The landowner must retain the ADU in common ownership with the primary dwelling.*

④ *An ADU will be considered an accessory use of residential property and will not require site plan approval, but the applicant must certify that the dwelling meets all applicable state health and safety codes. Applicants should be aware that if the proposed ADU is larger than provided for under state statute (30% of the floor area of the primary dwelling) or if the primary dwelling will not be owner occupied, the ADU may not be exempt from state code and wastewater regulations.*

④ *If the proposed ADU will not conform to the standards of this section, the landowner may be able to obtain a permit for a ~~duplex or multi-family dwelling, an attached additional single- or two-unit dwelling in conformance with all applicable provisions of these regulations (see Subsection regarding multiple dwelling units on a parcel).~~*

3205. Primitive Camp

A primitive camp must:

- a. Not be occupied for more than ~~450~~ 60 days in any calendar year and must not be the primary residence of the inhabitants.
- b. ~~Have a means of access to a maintained public road that meets the minimum requirements for driveways in Section 3008 unless occupancy will be limited to 3 consecutive weeks in any calendar year and a total of 60 days in any calendar year.~~
- c. ~~Meet the water supply and wastewater disposal standards of Section 3029 or qualify for an exemption to state water and wastewater regulations as certified to by the applicant. Primitive camps must meet the standards below to qualify for that exemption:~~
 - i. *Occupancy of a primitive camp must be limited to 3 consecutive weeks in any calendar year and a total of 60 days in any calendar year.*
 - ii. *A primitive camp must not have interior plumbing other than one sink with water and a composting or incinerating toilet that does not yield a liquid provided that its contents are disposed of in accordance with state rules.*
- d. Not be rented out as a dwelling unit or to guests.
- e. Meet all dimensional standards for principal structures in the applicable zoning district.
- b. *A camping unit (RV, travel trailer, tiny house, etc.) may be used as a primitive camp.*
- c. *Not more than the following number of primitive camps may be developed on a parcel:*

Parcel Size		
<6 acres	6 to <30 acres	30 or more acres
1 camp	2 camps	3 camps

3206. Home Occupation

A person who wished to have a business at their home should submit a zoning permit application and the Zoning Administrator will make a determination as to whether the proposed use is a home occupation as defined by these regulations, or a home business which requires the submission of a fee and a site plan review.

A home occupation must:

- a. Be operated by a resident of the associated dwelling;
- b. ~~Not generate regular traffic in excess of 10 vehicle trips per day; Not generate traffic in substantially greater volumes than would normally be expected from a residential use in the neighborhood.~~
- c. Meet the performance standards of Section 3105;
- d. ~~Operate only between the hours of 7 a.m. to 7 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday;~~

Commented [WG28]: PC felt hunting camps shouldn't need a driveway.

Commented [WG29]: State rule

Commented [WG30]: a)Should not generate noise or increased traffic out side of the hours of 7 a.m. to 7 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday.

- e. Not be primarily retail in nature, except that when selling retail sales of Offer for sale only goods manufactured on the premises, ancillary sales of or products directly related to the provision of personal service (e.g. sales of hair care products by a hair stylist), and internet / mail-order businesses that do not generate customer traffic will be allowed;
- f. Not provide repair services for motor vehicles, equipment or other large goods or machinery;
- g. Not occupy more than 40% of the habitable floor area of the dwelling and/or more than 1,500 square feet in one or more accessory buildings;
- h. Not employ more than 2 people who do not live in the associated dwelling and who work on-site;
- i. Provide employee and/or customer parking when necessary (in addition to the parking required for the dwelling unit) in accordance with Section 3104 as follows:
 - 1. If there will not be regular customer traffic, 1 parking space for each non-resident employee; or
 - 2. If there will be regular customer traffic, the number of spaces required under Subsection 3104.C based on the floor area devoted to the home occupation; and
- j. Not have any outdoor storage or use areas, including product display, outside an enclosed structure.

- b) A home occupation may have not more than 1 sign and must conform to all applicable standards of Section 3107.
- c) A home occupation will be considered an accessory use of residential property and will not require site plan approval.
- d) Any change in use, intensity, floor area, configuration, occupancy of the associated dwelling, or ownership of a home occupation that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the home occupation to another allowed use in conformance with all applicable provisions of these regulations.

3208. Home Business

A home business must:

- a. Be operated by a resident of the associated dwelling;
- b. Not have an adverse effect on the character of the area;
- c. Meet the performance standards of Section 3105;
- d. Conform to all applicable state health and safety codes;
- e. Operate only between the hours of 7 a.m. to 7 p.m. unless otherwise established as a condition of approval;

Commented [WG31]: Offers for sale only articles produced on the premises or services produced by the resident

Commented [WG32]: Allowed as a home business.

Commented [WG33]: Same as current rules. Storage would be allowed for a home business.

Commented [WG34]: May require a hearing

- f. Not occupy more than 40% of the habitable floor area of the dwelling, but may occupy any amount of space in one or more accessory buildings;
- g. Not employ more than 6 people who work on-site (including those residing in the associated dwelling);
- h. Provide parking in accordance with Section 3104; and
- i. Design and maintain any outdoor storage or use areas in accordance with all applicable provisions of these regulations and any conditions of approval (see Section 3103).

A home business may have signage as allowed in Section 3107.

A home business will require site plan approval

Any change in use, intensity, floor area, configuration, occupancy of the associated dwelling or ownership of a home business that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the home business to another allowed use in conformance with all applicable provisions of these regulations.

3209. Family Childcare Home

Commented [WG35]: State Rules

A family childcare home must:

- a) Be operated by a resident of the dwelling;
- b) Be registered by the state and conform to all applicable state health and safety codes; and
- c) Not care for more than 6 children on a full-time basis (more than 4 hours per day) and 4 children on a part-time basis (not more than 4 hours per day), not including any children who live in the home. (For establishments that care for more children, see Section .)
- d) *A family childcare home may have not more than 1 sign and must conform to all applicable standards of Section 3107.*
- e) *A family childcare home will be considered an accessory use of residential property and will not require site plan approval.*
- f) *Any change in use, intensity or ownership of a family childcare home that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the family childcare home to another allowed use (e.g. daycare) in conformance with all applicable provisions of these regulations.*

3210. Bed and Breakfast

A bed and breakfast must:

- j. Be located on a lot with an occupied dwelling;
- k. Be operated by a resident of the dwelling;

1. Be licensed by the state and conform to all applicable state health and safety codes;
- m. Not have more than 7 guest rooms;
- n. Not house any guest for a continuous period of 30 days or more; and
- o. Not offer meals to the general public.

A bed and breakfast must provide guest parking in accordance with Section 3104, including meeting the minimum parking requirements for lodging uses. Guest parking must be located so that it will not block the driveway and must conform to the standards of Section 3104.

A bed and breakfast may have not more than 1 sign and must conform to all applicable standards of Section 3107.

A bed and breakfast will be considered an accessory use of residential property and will not require site plan approval provided all guest rooms are within the dwelling. Site plan approval will be required if guest rooms will be located within one or more accessory structures on the lot.

3210 SHORT-TERM RENTAL

3210. A SHORT-TERM RENTAL(STR) is defined by Vermont Statute under Act 10 of 2018 (Spec. Sess.), Sec. 232 V.S.A. § 9282(a). as a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a periods of fewer than 30 consecutive days and for more than 14 days per calendar year **total**.

3210. B SHORT-TERM RENTAL must:

- a. adhere to the requirements for The town of Londonderry Short-Term Rental contained in the Ordinance ("STR Ordinance") passed on December 19, 2023, that may be amended from time to time, regulated by the Selectboard of the Town of Londonderry
- b. Conform to all applicable state health and safety codes;

3211 Care Home

3211.A A care home must:

- a) Operate under state licensing and in conformance with all applicable state health and safety codes;
- b) Be limited to a max number of residents that does not exceed 1 per 500 sq ft of gross floor area in the facility;
- c) Not house more than two unrelated residents per room;
- d) Provide residents with either kitchen facilities or meal service;
- e) Have at least one private bathroom that meets the minimum requirements of Paragraph 3010.E(1) for every 6 residents with at least one bathroom on each floor where there are bedrooms;
- f) Provide at least 100 square feet of common indoor day use space per resident; and

g) Provide a minimum of 250 square feet of common outdoor open space per resident that is designed with seating areas and other passive recreation facilities to be shared by all residents.

3212 Lodging Facility

3212. A

A lodging facility must:

1. Be on a lot at least 6 acres in size if located in the Residential or Rural districts;
2. ~~Not be closer than 100 feet to any existing residence in the Residential or Rural zoning districts (this will not be interpreted to include a residence on the same parcel or on a parcel in common ownership with the subject parcel);~~
3. Be limited to a maximum number of guestrooms that does not exceed 1 per 500 square feet of gross floor area;
4. Operate under state licensing and in conformance with all applicable state health and safety codes;
5. Not house any guest for a continuous period of 30 days or more; and
6. Provide at least 100 square feet of common outdoor open space for each guestroom that will be:
 - i. Located in one or more areas conveniently accessible to guests with no area being less than 30 feet in any dimension;
 - ii. Designed with seating areas and other passive recreation facilities to be available to all guests; and
 - iii. Landscaped with trees, shrubs, groundcover and/or ornamental plants.

3212.B

A lodging facility may include accessory uses such as restaurants, ~~event facilities~~, meeting spaces, retail shops, fitness centers, recreation facilities or spas that serve guests and may also be open to the general public in accordance with Section 3004. An applicant may seek a permit for more than one principal use in accordance with Subsection and all applicable provisions of these regulations if the proposed non lodging use(s) would exceed the floor area allowed under Section 3004.

3212.C

The maximum number of guests that may be accommodated in a lodging facility is regulated by district:

	VB	VMU	VR	GB	REC	RES	RL
Permitted Use	no max	24	n/a	no max	no max	n/a	n/a
Conditional Use	n/a	>24	24	n/a	n/a	24	no max

3213 Campground

3213.a *Applicability. The provisions of this section apply to establishments that offer guest accommodations in tents, RVs, tourist cabins, bunkhouses or similar camping structures/vehicles and access to recreation facilities. The provisions of this section will not apply to noncommercial backcountry camping on land without designated campsites. The provisions of this section will not apply to:*

1. Properties with three or fewer camping units or primitive camps; and
2. Noncommercial backcountry camping on land without designated campsites,

3213. b *Campground.* A campground must:

1. Operate under state licensing and in conformance with all applicable state health and safety codes;
- ~~2. Not operate from December 1 to April 15;~~
- ~~3. Be located on a parcel at least 12 acres in size;~~
4. Maintain or establish a naturally vegetated woody buffer at least 100 feet deep along all property boundaries, public rights-of-way, surface waters and wetlands, and 50 feet deep around all recreational use areas within the campground, unless otherwise specified by the Development Review Board through site plan review;
5. Be designed so that no campsite is less than 2,500 square feet in area or 25 feet in width as shown on the site plan;
6. Be designed so that each campsite is accessed via the internal drive(s) and not directly from a public road;
7. Have internal drives that meet the minimum driveway standards of Section 3008;
8. Not have any campsite closer than 100 feet to a side or rear property line;
9. Not have any campsite located within riparian buffers (see Section 3020);
10. Not house any guests for a continuous period of 30 days or more except on a seasonal campsite;
- 11. Not have more than 25% of the total number of campsites designated and used as seasonal campsites (rented for a continuous period of more than 30 days);**
12. Require all camping units designed to be driven or towed to be sited and maintained so that they are readily and legally able to be driven or towed (including vehicle inspection, proof of insurance, registration, and functioning directional lights);
- ~~13. Not allow camping units designed to be driven or towed to be stored on the property when it is not operating;~~
14. Provide lavatory, shower, toilet, trash and recycling facilities in accordance with these regulations and state regulations; and
15. Designate at least 25% of the site as common open space that will be improved and maintained with recreation facilities to be available to all campers.

Commented [WG36]: Leave up to the DRB

3213. C Primitive Campsites. *The Development Review Board may waive one or more provisions in Subsection (B) above for designated primitive campsites (tents or lean-tos, no recreational vehicles, no utility connections).*

3213. D Seasonal Campground. *A seasonal campground (a campground where more than 25% of the total number of campsites are offered for rent for a continuous period of more than 30 days) must be reviewed and approved as a planned unit development in accordance with Section 3401. Each campsite/camping unit will be considered to be 0.5 dwelling units for the purposes of calculating the maximum density (number of campsites/camping units) allowed within the seasonal campground.*

3214 Resort

Commented [WG37]: This use eliminated

3214. A Recreation Destination. *A resort must be a destination located in a setting of significant natural amenities that offers guests access to recreation activities and amenities as its primary function. At least 60% of the total land area of the resort (exclusive of leased lands) must be principally dedicated to recreation use. At least 80% of the land dedicated to recreation use must remain minimally developed and limited to passive recreation use.*

3214. B Fully Integrated Development. *A resort must be a fully integrated development with multiple buildings and/or lots that:*

- 1. Are commonly owned and/or managed;**
- 2. Are located in proximity and functionally related to one another;**
- 3. Share common facilities, amenities and/or infrastructure; and**
- 4. Are pedestrian-oriented and connected with pedestrian walkways.**

3214. C Master Plan Required. *A resort must be reviewed and approved as a planned unit development under this section and Section 3403. A pre-existing resort must submit a master site plan for approval under this section and Section 3403 prior to obtaining a zoning permit for any of the following that are not shown on a previously approved master plan:*

- 1. A new principal building, including replacement or reconstruction within the footprint of a pre-existing structure; or**
- 2. An increase of 10,000 square feet or more of impervious surface.**

3214. D Master Plan Requirements. *A resort master plan must include a site development plan and supplemental materials demonstrating conformance with the following:*

Building and Site Design

- p. The resort must be designed to blend the site development and architecture with the natural character and features of the land, including topography, vegetation, geology, slope, soils, natural resources, and scenic, cultural and historic resources.**
- q. The resort must have an identifiable and cohesive design character. Each building must contribute to that character through use of a common vocabulary of design features and palette of materials.**
- r. Roof heights and building masses must be varied to create greater visual interest and a pedestrian scaled form. Large buildings must be broken up to appear as an arrangement of smaller connected structures.**
- s. All areas of the resort intended for guest use must be accessible through a continuous**

network of sidewalks, paths or trails that are separated from vehicular use areas.

- Service areas must be sited away and/or screened from areas actively used by guests.*
- Commercial, cultural, entertainment and other accessory uses provided as part of the resort must be contained within the development and must not be oriented to public roads adjacent to the property.*
- Environmental Impacts. The applicant must identify and mitigate impacts to important natural resources as identified by the Vermont Agency of Natural Resources or in Londonderry Town Plan and any plan or study it incorporates by reference. If not already required under these regulations, the Development Review Board may require the applicant to provide a professionally prepared environmental impact assessment, groundwater study, erosion control plan, snow storage and stormwater management plan, and/or hazard mitigation plan as necessary to demonstrate that environmental impacts will be adequately mitigated.*
- Visual Impacts. The applicant must identify and mitigate impacts to scenic resources as identified in the Londonderry Town Plan and any plan or study it incorporates by reference. Mitigation measures include:*
 - i. Using size, scale, shape, color, texture, siting, height, building materials, lighting and other features to make proposed development visually subordinate in the landscape.*
 - ii. Limiting structure height to below the average tree canopy height of the natural vegetation adjacent to the structure unless additional height is necessary given the function of the structure.*
 - iii. Aligning, designing and siting proposed development to fit the natural topography and to take advantage of vegetation and land form screening.*
 - iv. Minimizing the reflectivity of structures and site improvements.*

3215. Repair Service

Applicability: These rules apply to new applications subject to major site plan review.

A repair service must:

- x. Carry out any body work, painting or other activities that will produce dust, fumes or odors within a building on the site with a properly functioning ventilation system that meets state and federal requirements; and
- y. Locate any washing, lubrication, hydraulic or similar equipment within a building on the site with a properly functioning system for collecting and preventing release of oils or other hazardous materials that meets state and federal requirements.

3215. B Vehicles or other goods, including those awaiting repair or pick-up, must not be parked or stored within minimum required setbacks for the applicable zoning district.

3215. C All outdoor storage associated with the repair service must meet the standards of Section 3103.

3216. Fueling Station

3216. A *A The provisions of this section apply to:*

1. New fueling stations;
2. Existing fueling stations being modified, resulting in the relocation of the fuel storage tanks and/or fuel pumps;
3. Existing fueling stations being modified, resulting in a new building or an addition to an existing building of 500 square feet or more; and
4. Existing fueling stations being expanded, resulting in an increase in the number of fuel pumps.

3216. B *Fueling stations must:*

1. Be located at least 500 feet from any other fueling station as measured between the property lines at their closest point (this will apply only to new fueling stations);
2. Be located on a lot that has at least 150 feet of frontage and is at least 20,000 square feet in area (this will apply only to new fueling stations, but stations that cannot meet these standards will not be allowed to increase the number of fuel pumps);
3. Be sited and designed to accommodate service by fuel tankers and other delivery vehicles without adversely impacting vehicular circulation within the site and without requiring service vehicles to back into or out of the site from the public road, or park on the public road;
4. Locate all new or relocated fuel pumps and islands at least 30 feet from side and rear lot lines; and
5. Not locate new fuel pumps and islands between the frontline of the principal building and the road (this provision will not apply to redesign/redevelopment of existing fueling stations provided that the number of pumps will not increase);
6. Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district and within 20 feet of the property line with a residential lot; and
7. Screen fueling areas that are located within 20 feet of a property line with a residential lot with a fence/berm and vegetated buffer in accordance with Section 3106.

3216. C *New or replacement fuel station canopies must:*

1. Not extend over minimum required setbacks for the applicable zoning district or public rights-of-way;
2. Not exceed 18 feet in height if the roof will be flat or 24 feet in height if the roof will be pitched;
3. Not incorporate signage, franchise designs or corporate identification elements;
4. Be architecturally integrated with the principal building through the use of the same or compatible materials, colors, roof pitch and design features;

Commented [WG38]: 3212. Fueling Station/ Car Wash/Auto Repair

1. **Applicability.** The provisions of this section apply to:
 - a)New fueling stations, car washes and automotive repair shops.
 - b)Existing fueling stations, car washes and automotive repair shops being modified, resulting in a new building or an addition to an existing building of 500 square feet or more.
 - c)Existing fueling stations being expanded, resulting in an increase in the number of fuel pumps.

Page Break

2. Fueling Station/ Car Wash/Auto Repair Shops

- a)Must not cause congestion or other unsafe conditions within the site or on the road. The Development Review Board may require an applicant to provide engineered plans demonstrating that adequate space exists on the site to accommodate queueing.
- b)Must locate all new or relocated fuel pumps and islands at least 30 feet from side and rear lot lines.
- c)Must not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district and within 20 feet of the property line with a residential lot.
- d)Must screen fueling and service areas that are located within 20 feet of a property line with a residential lot with a fence or a vegetated buffer in accordance with [Section 3103](#).

3. New or replacement fuel station canopies must:

- a)Not extend over minimum required setbacks for the applicable zoning district or public rights-of-way.
- b)Have illumination only on the underside (illuminated fascia are prohibited) with light fixtures that are recessed into the underside of the canopy.

4. Underground Fuel Tanks. All storage tanks associated with the use must meet the standards of [Section 3106](#) 3.i. The Development Review Board may approve a waiver of the setback requirements when an applicant will be replacing an existing non-conforming storage tank upon the applicant demonstrating that relocating the tank to bring it into conformance is not physically feasible given site-specific conditions or will unduly impact business operations.

5. Signs. Fueling stations may have pricing signs in accordance with [Section 3107](#)

6. Carwash Wastewater.

A carwash must

- a)Carry out all washing and mechanized drying activities within an enclosed building except that self-service bays may be open on two sides.
- b)Contain all wastewater on-site and prevent it from running off the property or into municipal storm drains or roadside ditches.
- c)Have a properly functioning wastewater capture and recycling system.

...

5. Have illumination only on the underside (illuminated fascia are prohibited) with light fixtures that are recessed into the underside of the canopy so as not to protrude below the canopy surface by more than 2 inches in accordance with Paragraph 3102.D(3).

3216. D *In addition to the front yard landscaping required under Subsection 3101.D, the applicant must landscape the area between the road and vehicular use areas on the lot with not less than 1.0 equivalent planting unit for every 30 feet of lot frontage. The Development Review Board may waive or reduce the additional landscaping requirement if vehicular use areas will be screened as viewed from the road by existing vegetation, buildings and/or change in elevation.*

3216 E *All storage tanks associated with the use must meet the standards of Subsection 3105.K. The Development Review Board may approve a waiver of the setback requirements when an applicant will be replacing an existing non-conforming storage tank upon the applicant demonstrating that relocating the tank to bring it into conformance is not physically feasible given site-specific conditions or will unduly impact business operations.*

3216. F *Fueling stations may have pricing signs in accordance with Subsection 3107.M.*

3216. G *Electric car charging stations located within a parking lot, structure or public right-of-way will not be considered fueling stations subject to the provisions of this section*

3217. Carwash

3217. A *The provisions of this section apply to any carwash established as a permanent use. They do not apply to any temporary car-washing events or the washing of vehicles on the vehicle owner's property.*

3217 B *A carwash must:*

- a. Carry out all washing and mechanized drying activities within an enclosed building except that self-service bays may be open on two sides;
- b. ~~Be designed so that the service bay doors do not face the road unless the Development Review Board finds that the building will not be visible from the road;~~
- c. Not operate between the hours of 9 p.m. and 7 a.m. unless otherwise specified by the Development Review Board through site plan review;
- d. Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district or within 20 feet of the property line with a residential lot;
- e. Screen vehicular use areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Section 3106;
- f. Contain all wastewater on-site and prevent it from running off the property or into municipal storm drains or roadside ditches;
- g. Have a properly functioning wastewater capture and recycling system;

- h. Be designed with at least 100 feet of stacking lane (where vehicles queue for service) per service bay as measured from the edge of the road right-of-way to the entrance to the service bay closest to the entrance from the road; and
- i. Be designed with an exit drive that is not less than 200 feet in length as measured from the exit of the service bay closest to the exit to the road to the edge of the road right-of-way.

3218. Veterinary, Pet or Animal Service

3218 a. *A veterinary, pet or animal service (including but not limited to, kennels, animal boarding facilities, animal shelters, animal daycare facilities, pet shops, pet groomers and pet dealers with outdoor areas for animal use must:*

- a. Be located on a lot at least 6 acres in size if it will have outdoor areas for animal use; far enough from residential uses that neighbors will not be disturbed by animal sounds.
- b. Must operate in accordance with state animal welfare regulations and be licensed by the state when applicable;
- c. Designate all outdoor areas for animal use on the site plan and must not locate such areas closer than 500 feet to an existing dwelling not in common ownership with the business;
- d. Enclose all outdoor areas for animal use with fencing of a suitable height and design to secure the animals;
- e. Have adequate provisions for waste disposal to prevent vermin infestation, odors and disease;
- f. Not use any structure located closer than 500 feet to an existing dwelling not in common ownership with the business for housing animals unless otherwise specified by the Development Review Board through site plan review; and
- g. Not have any animals kept outside an enclosed structure between 8 p.m. and 7 a.m. unless otherwise approved as a conditional use by the Development Review Board.

Commented [WG39]: a)Must operate in accordance with town ordinances and policies as well as state animal welfare regulations and must be licensed by the state when applicable.

3218. B *Any person who engages in the selling or exchanging of cats, dogs, wolf-hybrids or any combination from three or more litters in any 12-month period or seeks a pet dealer license from the Town of Londonderry must obtain a zoning permit to operate a pet or animal service in conformance with the provisions of this section.*

3219. Restaurant, Bar or Event Facility

3219. a *A restaurant, bar or event facility must:*

- a. Be licensed by the state and/or town as applicable;
- b. May have outdoor seating or other outdoor areas for patron use provided it is specifically shown on an approved site plan and conforms to the standards of Section 3103;

- c. Not have amplified music playing from outside an enclosed building or from within an open-air structure unless specifically approved with established sound levels and hours of operation by the Development Review Board;
- d. Soundproof walls, ceilings and/or floors that separate the establishment from any dwelling units within the same building not occupied by the owner or an employee of the business as necessary to ensure that background noise levels inside the dwelling will not exceed 30 dBA from 10 pm to 6 am and 55 dBA at other hours; and
- e. Be sited and designed to accommodate service vehicles without adversely impacting access and vehicular circulation within the site or on nearby public roads.

3219. b *Restaurants may have menu signs in accordance with Subsection 3107.N.*

3220. INDUSTRIAL Stone Products Manufacturing

3220a. A Unless otherwise established by the Development Review Board through site plan review upon the applicant demonstrating that all potential off site impacts, including noise and dust, will be fully mitigated, stone products manufacturing must:

- z. Be located on a parcel at least 6 acres in size;*
- aa. Not have outdoor use and storage areas except as specifically shown on an approved site plan in accordance with Section 3103;*
- bb. Not locate processing equipment closer than 500 feet to an existing dwelling that is not in common ownership with the business;*
- cc. Operate only on weekdays between the hours of 8 a.m. and 6 p.m., including all trucking operations; and*
- dd. Meet the performance standards of Section 3105.*

Commented [WG40]: Industrial uses combined into 2 categories, indoor and outdoor

3221. Storage And Distribution Services

3221a. *Storage and distribution services must:*

- a. Not have outdoor or unenclosed storage unless specifically approved by the Development Review Board in accordance with the standards of Section 3103;
- b. Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil unless specifically approved by the Development Review Board in accordance with the standards of Section 3105;
- c. Not have any stored goods displayed for sale except in accordance with Subsection ;
- d. Not allow anyone renting storage space to engage in retail sales, vehicle maintenance or repair, use of tools or equipment, or any activity other than storage of property on the premises; and
- e. Install screening along any property line abutting a residential lot with a fence/berm and landscaping in accordance with Section 3106.

3221 b. *Mini-storage buildings must:*

- a. Be located at least 40 feet from the road right-of-way;
- b. ~~Be oriented with their short side facing the road unless the Development Review Board waives this requirement upon the applicant demonstrating that it is not feasible due to site specific conditions (grade, lot depth, etc.) and the applicant provides screening between the buildings and the road in accordance with Section 3106;~~
- c. ~~Be compatible in design, materials and colors with one another when there will be multiple buildings on a site; and~~
- d. Use dark, muted and/or neutral exterior colors that would help blend the buildings into the surrounding landscape and must not use bright, intense and/or vibrant exterior colors or patterns that would call attention to the buildings.

3221. c. *Temporary sales or auctions of goods stored on the premises will be allowed as an accessory use for not more than 3 contiguous days and a total of 12 days in any calendar year.*

3222. **Tank Farm or Fuel Storage and Distribution Services**

3222 a. *Tank farm or fuel storage and distribution services must:*

- a. Be registered with the state and in compliance with all applicable state and federal regulations;
- b. Meet the performance standards of Section 3105;
- c. Locate all storage tanks (above or below ground) at least 100 feet from all property lines;
- d. Locate all aboveground tanks on a hard, level surface;
- e. Not have a total storage capacity (above and below ground) in excess of 60,000 gallons;
- f. Provide a containment system for any aboveground tank that is:
 - i. *Capable of holding at least 125% of the volume of the tank, and*
 - ii. *Designed to appropriately treat and release any rainwater that accumulates within the containment area;*
- g. Be designed to prevent contact between vehicles and any aboveground tank (i.e., provision of fencing or bollards);
- h. Screen the facility in accordance with 3106; and
- i. Not display any signs on an aboveground tank except for identification and warning signs required by state or federal regulations.

3222 B. *Pre-existing tank farm or fuel storage and distribution services must not be expanded or redeveloped to increase the total amount of storage capacity on the site or locate storage tanks closer to any property line unless all the standards of Subsection will be met.*

3222 C. *The provisions of this section do not apply to storage of fuels or other materials for on-site use.*

3223 *Communications Antennas and Towers*

Purpose. *The purpose of this subsection is to:*

- a. Minimize the impacts of communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- b. Accommodate the need and demand for communications facilities;
- c. Encourage the location and collocation of communications equipment on existing structures in order to minimize visual, aesthetic, public safety and ecological impacts and reduce the need for additional towers;
- d. Provide for the replacement and/or removal of nonconforming or discontinued antennas and towers; and
- e. Respond to the policies of the Telecommunications Act of 1996 by not unreasonably discriminating between providers of functionally equivalent personal wireless service and not effectively prohibiting provision of personal wireless service in the Town of Londonderry.

Applicability. *Except as specifically exempted in Subchapter Sections 1100-1105, the standards of this subsection apply to the installation, construction or modification of the following communications facilities:*

- a. Existing and proposed antennas and towers;
- b. Replacement antennas and towers;
- c. Broadcast antennas and towers;
- d. Collocated and combined antennas on existing towers;
- e. Roof-mounted antennas and supporting structures;
- f. Surface-mounted antennas;
- g. Antennas mounted on utility poles, including utility poles located within public rights-of-way;
- h. Stealth wireless communications facilities; and
- i. Amateur radio antennas and towers with an overall height greater than 50 feet.

3223 a. De Minimis Impact. *The Administrative Officer may approve and issue a zoning permit for an application for a communication facility if it conforms to all applicable provisions of these regulations and imposes no or de minimis impact on any criteria established in these regulations. The Administrative Officer will only consider an application to have a de minimis impact if it meets all the following:*

- a. The height and width of the facility or tower, excluding equipment, antennas or ancillary improvements, will not increase;
- b. The total amount of impervious surface, including access roads, associated with the facility or tower will not increase by more than 300 square feet;
- c. Any addition, modification or replacement of an antenna or other equipment will not extend vertically more than 10 feet above and horizontally more than 10 feet out from the facility or tower as currently configured; and
- d. Any additional or replacement equipment, antennas or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas or ancillary improvements on the facility or support structure by more than 75 square feet, and will not exceed the loading capacity of the support structure.

3223 b. Application Requirements. *In addition to all other requirements, applicants must submit the following to demonstrate compliance with the provisions of this section:*

- a. A signed statement from the facility's owner or owner's agent stating that the radio frequency emissions will comply with Federal Communications Commission (FCC) standards;
- b. Proof that the proposed facility has been designed to withstand sustained winds of 110 mph and a 15-second wind gust of 130 mph;
- c. Proof that any proposed tower will be designed so that, in the event of a structural failure, it will collapse within the boundaries of the lot on which it is located;
- d. An FCC license, and construction development approval if applicable, to transmit radio signals in Town of Londonderry;
- e. The name, address and telephone contact information for the owner of any proposed or existing tower, and a statement that such information will be updated if there is a change;
- f. A stamped structural analysis of the proposed facility prepared by a professional engineer, indicating the proposed and future loading capacity of any tower;
- g. Proof of compliance with Federal Aviation Administration regulations of objects affecting navigable airspace;
- h. A description of the coverage area planned for the cell to be served by the proposed facility;
- i. A description of the search area used to locate the proposed facility;
- j. A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility; and

k. Antenna heights and power levels of the proposed facility and all other facilities on the subject property.

3223 c. Siting Priorities. *The Development Review Board will only approve a new tower upon the applicant demonstrating that the proposed antenna cannot be accommodated on an existing tower, building or other structure or by construction of a stealth facility. In order to justify the construction of new tower, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that the alternatives below (listed in order of preference) do not constitute feasible alternatives:*

- a. Collocated or combined antennas;
- b. Surface-mounted antennas;
- c. Roof-mounted antennas; and
- d. Stealth wireless communications facility.

3223 d Prohibited Locations. *A new tower must not be located:*

- a. Closer than 1.5 times its height from all other structures (not including structures accessory to the tower), property lines, road rights-of-way, surface waters and aboveground utility line rights-of-way; and
- b. Within 1,000 feet from any designated historic district, historic structure or scenic road.

3223 e Antenna Types. *Antennas must be designed and configured in a manner that minimizes adverse visual impacts as follows:*

ee. Antennas must be one of the types below (listed in order of preference):

- i. Flush-mounted;
- ii. Panel;
- iii. Whip; or
- iv. Dish.

ff. In order to justify the use of an antenna type lower in the ranked listed above, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that higher-ranked alternatives cannot be used.

3223 f. Surface-Mounted Antennas. *Surface-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:*

- a. Maintain a color that is the same as the surface to which they are attached unless the Development Review Board finds that another color will be more contextually compatible;
- b. Be placed at least 15 feet above the ground; and
- c. Be placed so that no portion of the antenna is less than 3 feet below the roof line, where proposed to be mounted on a building.

3223 g Roof-Mounted Antennas. *Roof-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:*

- a. Be placed only on commercial, industrial or non-residential institutional buildings that are at least 30 feet in height;
- b. Be placed as near to the center of the roof as possible;
- c. Not extend above the roof line of the building to which they are attached by more than 20 feet;
- d. Have a monopole-type construction;
- e. Maintain a galvanized gray or brown finish unless the Development Review Board finds that another color will be more contextually compatible;
- f. Be screened by a parapet or other structure in order to minimize their visual impact as viewed from the road; and
- g. Not have signs.

3223 h. Stealth Wireless Communications Facilities. *A stealth facility must:*

- a. Not have antennas or ancillary equipment that are readily identifiable from a public vantage point as wireless communications equipment; and
- b. Be designed so that they are reasonably consistent with the scale and character of nearby structures in the built or surrounding vegetation in the natural environment.

3223 i Towers. *New communication towers must:*

- a. Not be built on speculation as evidenced by a letter of commitment from one or more FCC-licensed communication carriers;
- b. Allow for co-location as documented in a letter of intent from the facility owner;
- c. Have a monopole-type construction except that:
 - i. *Broadcast structures taller than 200 feet, amateur radio antennas and AM broadcast antennas may have a lattice-type construction;*
- d. Maintain a galvanized gray or brown finish or other contextually-compatible color as determined by the Development Review Board (this includes ancillary appurtenances), except if otherwise required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC);
- e. Not have lights, signals or other illumination unless the applicant demonstrates that lighting is required by the FAA or FCC; and
- f. Not have signs except for hazard notification signs as required by state or federal regulations.

3223. j Security and Screening. *The facility must be secured by fencing or other appropriate means. All structures to be located at ground level must be screened in accordance with Section 3103.*

3224 Contractor's Yard or Unenclosed Storage

*3224 a. Contractor's yard or unenclosed storage **subject to major site plan approval** must:*

- gg. Be located, landscaped and screened in accordance with Section 3103.
- hh. **May be required by the DRB to** Be fenced in accordance with Section 3013 unless otherwise established by the Development Review Board through site plan review.
- ii. Control erosion and sediment transport from any materials stored outdoors in accordance with Section 3012.
- jj. Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil (such a use will be considered waste storage). This provision will not be interpreted to apply to storage of hazardous materials for on-site use in accordance with state and federal regulations, and storage of wastes generated on-site awaiting transportation off-site for lawful disposal.
- kk. **May be required by the DRB to** Conduct equipment or vehicle maintenance or repair activities within an enclosed building in accordance with the provisions of Section .

3225 Commercial Outdoor Recreation

3225. a Commercial outdoor recreation must:

- a. Be located on a parcel at least 6 acres in size;
- b. Meet the performance standards of Section 3105; and
- c. Obtain conditional use approval if the recreational activity:
 - i. *Involves use of motorized vehicles, firearms or a sound amplification system outside an enclosed building, in such case the Development Review Board will require noise-generating activities to be set back not less than 100 feet from all property lines; or*
 - ii. *Is intended to accommodate more than 20 participants and/or spectators at one time.*

3226 Child Day Care

For rules on a family child-care home see section 3208

3226 a. A child day care must:

- a. *Be registered or licensed by the state;*
- b. Not have outdoor play areas except as specifically shown on an approved site plan;
- c. Enclose all outdoor play areas with fencing of a suitable height and design in accordance with Section 3013 unless otherwise established by the Development Review Board through site plan review; and
- d. Set all outdoor play areas back at least 50 feet from any adjoining residential lot unless otherwise specified by the Development Review Board through site plan review.

3227 Firewood Processing

Commented [WG41]: Moved to Manufacturing outdoors

3227 a. Unless otherwise approved by the Development Review Board through site plan review upon the applicant demonstrating that all potential off site impacts, including noise and dust, will be fully mitigated, firewood processing must:

- ll. Be located on a parcel at least 6 acres in size;*
- mm. Not have outdoor use and storage areas except as specifically shown on an approved site plan in accordance with Section 3103;*
- nn. Not locate processing equipment closer than 200 feet to an existing dwelling that is not in common ownership with the business;*
- oo. Operate only on weekdays between the hours of 8 a.m. and 6 p.m., including all trucking operations; and*
- pp. Meet the performance standards of Section 3105.*

3228 Extraction and Quarrying

Any extraction and quarrying operation that receives and is in compliance with an act 250 permit will have satisfied the requirements of this section.

3228. a Extraction and quarrying must:

- a. Be located on a parcel at least 12 acres in size;*
- b. Maintain or establish a naturally vegetated woody buffer at least 100 feet deep along all property boundaries, public rights-of-way, surface waters and wetlands unless otherwise established by the Development Review Board through site plan review;*
- c. Retain and stockpile any topsoil removed for reapplication to disturbed areas during reclamation;*
- d. Submit and implement professionally prepared erosion control and stormwater management plans;*
- e. Submit a report from a hydrologist demonstrating that the proposed activity will not cause the permanent lowering of the water table on surrounding properties;*
- f. Limit operational activities (blasting, excavation, processing, hauling, etc.) to between the hours of 8 a.m. and 6 p.m. (or dusk if earlier) unless the Development Review Board specifically sets other hours of operation (more restrictive or expansive);*
- g. Install warning signs and fencing as necessary to protect public safety;*
- h. Meet the performance standards of Section 3105;*
- i. Obtain all necessary town and state permits; and*
- j. Reclaim the site progressively as the extraction or quarrying activity advances on the site as follows:*

- i. Remove all equipment, stockpiles, debris, signs and other materials or improvements associated with the extraction or quarry use as part of the final reclamation effort;
- ii. Design any water body to be created on the site as a result of the extraction or quarrying use to have a natural form with variation in shoreline and depth;
- iii. Maintain or establish a final slope that does not exceed a grade of 2:1 (horizontal to vertical) over a distance of 30 feet on all disturbed areas excluding any areas of exposed ledge;
- iv. Evenly spread at least 4 inches of topsoil capable of sustaining vegetation on all disturbed areas excluding any areas of exposed ledge;
- v. Stabilize and seed disturbed areas at the earliest possible time following completion of extraction or quarrying operations in an area;
- vi. Replant disturbed areas with groundcover and not less than 4.0 EPUs per acre disturbed (see Figure 3-05); and
- vii. Keep erosion control measures in place until permanent vegetation has been established.

Commented [WG42]: Ensure that any holes created by quarrying will not present a danger to the public

3228 . b The provisions of this section will not apply to removal of earth resources associated with approved land development.

3228. c The provisions of this section will not apply to removal of earth resources undertaken in response to a declared emergency.

3229 Accessory On-Farm Business and Agricultural Enterprise

3229 a **Applicability.** Accessory on-farm businesses are permitted with site plan review in all zoning districts on any farm (as defined in Paragraph 5003.F(2)). Agricultural enterprises may be allowed in specified districts.

Farm Stands. On properties that do not qualify as farms people may have small stands that sell produce raised on the property if approved by the road foreman or the road commissioner.

3229 b. **Accessory On-Farm Business.** An accessory on-farm business must be:

- a. A small business that forms as a natural extension of the farm (as defined in these regulations) and the ongoing, active agricultural use of the property, and that engages in:
 - i. The storage, preparation, processing and sale of qualifying products provided that more than 50% of the total annual sales are from qualifying products (as defined in Paragraph 5003.Q(1)) that are principally produced on the farm at which the business is located; or
 - ii. Educational, recreational, or social activities or events that feature agricultural practices and/or qualifying products including but not limited to farm tours, farm stays, tastings and meals, petting zoos, sleigh rides, classes or exhibits.

- b. Subordinate to and integrated with the agricultural operation.
- c. Located within or adjacent to the farmstead, except that the Development Review Board may waive this requirement upon the applicant demonstrating that the proposed use needs greater separation from the farmstead.
- d. Sited so that associated development (buildings, parking, etc.) will be located off primary agricultural soils to the maximum extent feasible.
- e. Sited and designed to maintain a rural and agricultural character, and not a commercial or industrial character.
- f. Not located closer than 200 feet to an existing dwelling that is not in common ownership with the business.
- g. In conformance with all applicable standards of these regulations, including but not limited to the parking and loading standards of Section 3104, the performance standards of Section 3105, the applicable specific use standards providing meals, hosting events (weddings, classes, parties, etc.) or offering lodging.

3329 c. Agricultural Enterprise. *An agricultural enterprise must be:*

- a. A business principally engaged in the storage, preparation and processing of qualifying products (as defined in Paragraph 5003.Q(1)) that are produced in Vermont. The business may include related accessory uses such as direct retail sales of its products, facility tours and educational programs.
- b. Located on a parcel at least 6 acres in size.
- c. Sited so that associated development (buildings, parking, etc.) will be located off primary agricultural soils to the maximum extent feasible.
- d. Sited and designed to maintain a rural and agricultural character, and not a commercial or industrial character.
- e. Not located closer than 200 feet to an existing dwelling that is not in common ownership with the business.

3229 d. Signs. *In addition to the signs allowed under Section 3107, an on-farm business or agricultural enterprise may display not more than 3 temporary signs advertising products or activities currently in season as follows:*

- a. A temporary sign may be mounted on a permanent support structure;
- b. Each temporary sign must not be more than 8 square feet in area or more than 8 feet in height;
- c. An individual temporary sign must not be displayed for more than 90 days in any calendar year; and

- d. Temporary signs may be located on any land farmed by the operator of the on-farm business.

4. Administration and Enforcement

4000. Roles and Responsibilities

4001. Administrative Officer

The Planning Commission will nominate and the Selectboard will appoint an Administrative Officer in accordance with state statute. The Selectboard may appoint an Acting or Assistant Administrative Officer to act under the supervision of the Administrative Officer, in the Administrative Officer's absence, and/or if the Administrative Officer has a conflict of interest.

The Administrative Officer will:

- Assist applicants in determining whether and which town permits and/or approvals will be needed for a project;
- Provide applicants with application forms;
- Inspect projects during construction when required as a condition of approval or to ensure compliance with these regulations;
- Maintain public records;
- Respond to complaints and violations; and
- Perform all other tasks necessary to administer these regulations.

The Administrative Officer must enforce the provisions of these regulations literally and may only issue zoning permits or other approvals for development that conforms to these regulations.

The Administrative Officer will refer applications to the Development Review Board as required under these regulations.

4002. Planning Commission

The Selectboard appoints members to the Planning Commission in accordance with state statute.

The Planning Commission may prepare amendments to these regulations and make recommendations to the Selectboard on the amendment of these regulations.

The Planning Commission has no development review authority under these regulations but may make recommendations on planning and development issues in Londonderry generally.

4003. Development Review Board

The Selectboard appoints members to the Development Review Board in accordance with state statute.

The Development Review Board performs development review functions as specified in these regulations, state statute and its adopted rules of procedure.

4100. Fees and Filing Requirements

4101. Permit Fees

The Selectboard will establish reasonable fees for the Administrative Officer or other town employees to charge for administering these regulations. These fees may include, but are not limited to, the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections during construction.

An applicant must pay the applicable permit fees when submitting an application. The Administrative Officer will not deem an application complete until all applicable permit fees are paid in full.

4102. Impact Fees

The Town of Londonderry may require applicants to pay impact fees in accordance with any duly adopted impact fee ordinance and state statute.

An applicant must pay the applicable impact fees in full prior to obtaining a zoning permit or filing a subdivision plat.

4103. Technical or Legal Review Costs

The Administrative Officer or Development Review Board may hire qualified professionals to provide an independent technical and/or legal review of an application when deemed necessary to ensure compliance with these regulations.

The Administrative Officer or Development Review Board must notify the applicant prior to hiring a consultant to conduct a technical or legal review.

The applicant must pay the reasonable cost of any required technical or legal review prior to obtaining a zoning permit or filing a subdivision plat.

4104. Performance Bonds or Sureties

The Administrative Officer or Development Review Board may require an applicant to provide a performance bond or similar surety in a form acceptable to the Selectboard as a condition of approval to insure the completion of proposed development in accordance with approved plans and the protection of any public facilities that may be affected by proposed development in accordance with applicable town or state specifications.

The Administrative Officer or Development Review Board may require an applicant to provide a quote prepared by a qualified professional for the full project cost and then may base the amount of any bond or surety on that quote.

The Town of Londonderry will only release a required bond or surety after certification by the applicant and determination by the Administrative Officer that the proposed development has been satisfactorily completed.

4105. Monitoring or Inspection Costs

The Administrative Officer or Development Review Board may condition approval upon monitoring and inspection during construction or once the use has commenced when deemed necessary to ensure compliance with these regulations. The applicant must pay the reasonable cost of any required monitoring or inspection.

4106. As-Built Drawings

The Administrative Officer or Development Review Board may require an applicant to file as-built drawings as a condition of approval.

The Town of Londonderry will require as-built drawings for any infrastructure to be built within town rights-of-way or to be turned over to the town.

The Administrative Officer will require an applicant to file as-built drawings when approved plans are amended or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

4107. Other Permits, Approvals and Certifications

The Administrative Officer or Development Review Board may condition approval upon the applicant filing other permits, approvals or certifications required by the Town of Londonderry, the State of Vermont or other regulatory entities prior to the issuance of a zoning permit, the start of construction, and/or the issuance of a certificate of zoning compliance.

4200.Zoning Permits

4201.Submitting a Zoning Permit Application

Administrative Officer. The Administrative Officer will assist prospective applicants by:

Determining whether a project will require a zoning permit, and any associated development approvals, under these regulations and keeping written documentation of any such determinations as part of his/her office records;

Providing applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s);

Notifying applicants of the fees or other charges that the town may charge in relation to the application or proposed development;

Informing applicants that state permits may be required for the proposed development and recommending that applicants contact the State Permit Specialist at the Springfield Regional Office of the Vermont Department of Environmental Conservation; and

Providing applicants with copies of the state energy standards for residential or commercial buildings as applicable.

Applicant. The applicant must:

Submit all required forms, supporting materials and fees to the Administrative Officer to apply for a zoning permit, and any associated development approval, under these regulations;

Provide all the information necessary to demonstrate compliance with these regulations; and

Certify, by signing the application form, that all the information provided is complete and accurate to the best of his/her knowledge,

Submit authorization from the landowner or a representative of the entity that owns the land in the form of a signature on the application, or a letter authorizing the applicant to make the application on their behalf.

The Administrative Officer or Development Review Board may:

- a) *Reject an application that misrepresents any material fact; and*
- b) *Award reasonable attorney's fees and costs to anyone who has incurred attorney's fees and costs in connection with an application that misrepresents any material fact.*

Application Requirements. The Administrative Officer:

May waive an application requirement upon finding the information is not necessary to determine compliance with these regulations;

May require an applicant to provide additional information as necessary to demonstrate compliance with these regulations; and

Must keep written documentation of any application requirement waived or additional information requested as part of his/her office records.

Determination of Completeness. The Administrative Officer must:

Determine whether an application is complete promptly and in no case more than 15 **business** days after the applicant submits it unless the applicant agrees to a longer period; and

Inform the applicant of his/her determination. If the application is incomplete, the Administrative Officer must inform the applicant in writing of what additional information is required.

4202. Acting on a Complete Zoning Permit Application

Time to Act. Once the Administrative Officer determines that an application for a zoning permit is complete, he/she must act within 30 **business** days to approve, deny or refer it to the Development Review Board except that the time period within which the Administrative Officer must act will not commence for a zoning permit application that requires:

- i. One or more development approvals under these regulations until the applicant has obtained all those necessary approvals for the proposed development; or
- b. Notification of a state agency until the agency comments or the comment period elapses, whichever occurs first.

Deemed Approval. If the Administrative Officer does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Administrative Officer's failure to act within the 30-day period resulted in a "deemed approval" of the application.

Review Criteria. The Administrative Officer must administer these regulations literally and must not approve an application for a zoning permit unless it conforms to all applicable provisions of these regulations.

Amended Regulations under Consideration. The Administrative Officer must act on any application submitted while Selectboard is considering amendments to these regulations in accordance with state statute [24 V.S.A. § 4449(d)].

Decisions. The Administrative Officer must approve or deny applications in writing and specifically provide the following information:

When approving an application, the Administrative Officer must inform the applicant that he/she must:

- a) Post a notice of the zoning permit (to be provided by the Administrative Officer) within view from the public right-of-way on the subject property or if no visible location is available within the public right-of-way most nearly adjacent to the

subject property throughout the 15-day or 30 day appeal period; and

b) Not commence the development authorized by the permit until the 15-day or 30 day appeal period has ended and he/she has provided the Administrative Officer with copies of any state permits or approvals as per Subsection 4202.F.

- When denying an application, the Administrative Officer must:

- Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and*
- Include a copy of Section 4402, which explains the appeal process.*

Permit Issuance. The Administrative Officer:

Conditions of Approval. May issue a zoning permit with conditions as necessary to ensure compliance with these regulations;

Temporary Permits. May issue a zoning permit to allow a temporary use or structure for a specified period not to exceed 2 years with conditions requiring the use to terminate or the structure to be removed, or that applicant obtain a zoning permit for a permanent use or structure, prior to the expiration of the permit;

Notification Prior to Use or Occupancy. Must condition any zoning permit on the applicant notifying the Administrative Officer when construction is completed and/or the use will be commencing (some proposed development will require a Certificate of zoning compliance in accordance with Section 4206);

Energy Certificates. Must condition any zoning permit for proposed development that is subject to the state's residential or commercial building energy standards on the applicant providing the Administrative Officer with a copy of an energy certificate for the building when construction is completed;

Wastewater Permits. Must condition any zoning permit for proposed development that requires the construction, modification or replacement of a potable water supply or wastewater system, or that increases the design flow or modifies the operational requirements of a potable water supply or wastewater system, on the applicant obtaining and providing the Administrative Officer with a copy of a state Wastewater System and Potable Water Supply Permit prior to the start of construction;

Stormwater Permits. Must condition any zoning permit for proposed development that requires a state stormwater permit on the applicant obtaining and providing the Administrative Officer with a copy of that permit prior to the start of construction; and

Highway Access Permits. Must condition any zoning permit for proposed development that requires a new or modified access on the applicant obtaining and providing the Administrative Officer with a copy of the state or town highway access permit, as applicable, prior to the start of construction.

Posting Requirements. The Administrative Officer must post a copy of the zoning permit in at least one public place within 3 **business** days after issuing it. The copy must remain posted throughout the 15-day **or** 30-day appeal period.

Filing Requirements. The Administrative Officer must:

- a) Provide a copy of the permit to the Listers within 3 **business** days after issuing it;
- b) Deliver an original, signed copy of the zoning permit or the notice of zoning permit to the Town Clerk for recording within **business** 30 days after issuing it, except that temporary permits do not have to be recorded; and
- c) File a copy of the permit as part of his/her office records within 30 days after issuing it.

4203. Obtaining a Zoning Permit

Permit Takes Effect. *A zoning permit takes effect on the 16th day after the Administrative Officer issues an administrative permit, or 30 days after a permit issued after a Development Review Board Hearing if provided that no appeal is filed during the appropriate appeal period—the previous 15 days (see Section 4402) or that the applicant has not requested a delay (see Subsection 4203.B). If an interested person files an appeal during the appeal period, the zoning permit will not take effect until the appeal is decided.*

Delay in Effect. *The applicant may request that a zoning permit and any associated development approvals not take effect until he/she has obtained all permits and approvals necessary to commence the development in accordance with the following:*

- a) The Administrative Officer may delay the effective date of a permit and any associated development approvals for no more than 12 months unless the Development Review Board approves a longer delay due to factors beyond the applicant's control (e.g., extended or contested Act 250 proceedings or litigation).
- b) It will be the applicant's responsibility to notify the Administrative Officer when he/she is ready to commence the development and request that the zoning permit and any associated development approvals take effect.

Permit Timeframe and Extension. *Zoning permits and any associated development approvals expire 2 years from the date the permit takes effect unless:*

- a) The Development Review Board specifies otherwise as a condition of approval;
- b) The applicant commences any use and/or substantially completes any construction authorized by the permit prior to its expiration; or
- c) Prior to the zoning permit's expiration, the applicant requests and receives from the Administrative Officer an extension of not more than 24 months. The Administrative Officer may only grant one such extension upon the applicant demonstrating that:
 - i. *Any improvements completed to date conform to the conditions of the permit and any associated development approvals; and*
 - ii. *There have been no amendments to these regulations or change in external circumstances that would have caused a material change in the decision(s) on the original application(s).*
- d) ~~Permit extensions do not need to be recorded in the towns land records.~~

Phased Projects. *If the Development Review Board approves a project to be developed in phases, the Administrative Officer will issue zoning permits for that project in accordance with the approved phasing plan and schedule. Each zoning permit will be separately issued and administered in accordance with the provisions of these regulations.*

Projects with Multiple Units or Structures. *The Administrative Officer may issue a zoning permit for each unit or structure within a project with multiple units or structures. If so, each zoning permit will be separately administered in accordance with the provisions of these regulations.*

Transfer of Permit. *Zoning permits and any associated development approval remain in effect as specified in these regulations irrespective of any change in ownership or tenancy of the subject property. All subsequent landowners or tenants are subject to the requirements and conditions of any zoning permit and associated development approvals.*

Expired Permits. *If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant must apply for a new zoning permit and any other associated development approvals under these regulations.*

4204. Amending Permits or Approvals Prior to Project Completion

An applicant may submit a written request for the Administrative Officer to amend a zoning permit, and any associated development approval, prior to project completion. To obtain an amendment, the applicant must demonstrate that the proposed changes to the development:

- a. Are in conformance with the dimensional standards for the zoning district and all other applicable provisions of these regulations;
- b. Do not have the effect of materially or substantively altering any of the findings of fact of the permit and any associated development approvals; and
- c. Do not change the scale, location, type, character or intensity of the approved development or use to a greater extent than specified below:
 - i. Any proposed increase in structure height must not exceed 8 feet;
 - ii. Any proposed decrease in setback resulting from a change in the structure's footprint or location must not exceed the lesser of 10 feet or 50%;
 - iii. Any proposed increase in building footprint must not exceed the lesser of 500 square feet or 50%;
 - iv. Any proposed increase in the total amount of impervious surface on the lot must not exceed 2,500 square feet;
 - v. Any proposed modification must not result in an increased requirement for parking or loading spaces;
 - vi. Any proposed substitution of exterior materials or fixtures must be in-kind with what was originally approved (if exterior materials or fixtures were specified in the original application or approval); and
 - vii. Any proposed substitution of required plant materials must not change the overall landscape design concept and function (if plant materials were specified in the original application or approval).

b) *The scope of the review will be limited to those aspects of the development affected by the proposed changes.*

c) *Based on the information provided by the applicant in response to the criteria in Subsection 4204.A, the Administrative Officer may either:*

- i. *Approve the request to amend a permit, and any associated development approval, in writing and may condition any approval on the applicant submitting as-built plans when construction is complete. No notice or posting is required for an administratively-approved amendment.*
- ii. *Decline to amend the permit, and any associated development approval, and refer the request to the Development Review Board for review under Section 4312.*

The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

4205. Inspecting Development During Construction

*The Administrative Officer may inspect **may do a zoning compliance inspection of any** development during construction as necessary to ensure compliance with these regulations and any permit or approval conditions.*

Commented [WG43]: Make it clear that this is not a building code inspection

4206. Obtaining a Certificate of Zoning Compliance

*When Required. An applicant must request a certificate of zoning compliance from the Administrative Officer before he/she occupies or commences the use of any development subject to **major** site plan or conditional use approval.*

Application. The Administrative Officer will provide applicants with the necessary form to apply for a certificate of zoning compliance. The applicant must submit the completed form prior to the expiration of the associated zoning permit.

Time to Act. The Administrative Officer must act on a complete application for a certificate of zoning compliance promptly and in all cases within 30 days. The Administrative Officer may:

- *Require the applicant to submit documentation from a qualified professional certifying that the development as constructed conforms to the approved plans; and/or*
- *Inspect the subject property and consult with other town or state personnel as necessary to determine compliance.*

Deemed Approval. *If the Administrative Officer does not act on a complete application for a certificate of zoning compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Administrative Officer's failure to act within the 30-day period resulted in a "deemed approval" of the application.*

Criteria. *Before receiving a final certificate of zoning compliance, the applicant must certify and demonstrate to the Administrative Officer that:*

- The development is substantially complete and conforms to the requirements of the zoning permit and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
- All commonly-owned or shared improvements and infrastructure connections are complete and conform to any applicable town or state specifications, the requirements of the zoning permit and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
- The applicant has recorded all required documents with the town including, but not limited to, as-built drawings, energy certificate, wastewater and potable water supply permit, access permit, and stormwater permit; and
- The applicant has paid all required fees.

Temporary Certificate. *The Administrative Officer may issue a temporary certificate of zoning compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:*

The Administrative Officer may require the applicant to submit a performance bond in accordance with Section 4104 to insure full completion of the outstanding work;

The Administrative Officer will require the applicant to submit a performance bond in accordance with Section 4104 if any commonly-owned or shared improvements or infrastructure connections remain incomplete; and

The applicant must apply for a final certificate of zoning compliance prior to the expiration of the temporary certificate.

Phased Development. *If the development will be phased, Administrative Officer may issue certificates of compliance for individual phases as they are completed in accordance with the permit and associated conditions of approval.*

Decisions. *The Administrative Officer must approve or deny applications for a certificate of zoning compliance in writing as follows:*

When approving an application, the Administrative Officer must inform the applicant that the issuance of a certificate of zoning compliance will not preclude the Town of Londonderry taking enforcement action in accordance with **Subchapter** **Sections 4600-4605** for any violation of the zoning permit or associated development approvals.

When denying an application, the Administrative Officer must:

- State the reasons for the denial;*
- Inform the applicant that he/she may appeal the denial to the Development Review*

Board within 15 days of the date of the decision; and

- iii. Include a copy of Section 4402, which explains the appeal process.*

Denials. *If the Administrative Officer denies an application for a certificate of zoning compliance:*

- The Administrative Officer must commence appropriate enforcement action under **Subchapter** **Sections 4600-4605** if he/she finds a violation of these regulations.
- The applicant may submit another application for a certificate of zoning compliance, including all applicable fees, after remedying any conditions identified as the reason for the denial.

Posting Requirements. *The Administrative Officer must post a copy of the certificate of zoning compliance in at least one public place within 3 days after issuing it. The copy must remain posted throughout the 15-day appeal period.*

Filing Requirements. *The Administrative Officer must:*

Provide a copy of the certificate of zoning compliance to the Listers within 3 days after issuing it;

Deliver an original, signed copy of the certificate of zoning compliance to the Town Clerk for recording within 30 days after issuing it, except that temporary certificates do not have to be recorded; and

File a copy of the certificate of zoning compliance as part of his/her office records within 30 days after issuing it

4207. Revoking Permits or Approvals

The Administrative Officer may petition the Environmental Division of Superior Court to revoke a zoning permit and any associated development approvals if an applicant:

- Omitted or misrepresented a material fact on an application or at a hearing; or
- Violates the terms of the permit and any associated development approvals.

4208. Appealing Administrative Actions or Decisions

The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under these regulations to the Development Review Board as specified in Section 4402.

4200. Development Approvals

4301. Application Process

Pre-Application Conference. A prospective applicant may request a pre-application conference with the Administrative Officer prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the application. Any comments or recommendations made are intended to provide general direction to the prospective applicant, but will not be deemed binding in the preparation or review of any subsequent application for development approval.

Administrative Officer. The Administrative Officer will assist prospective applicants by:

- a) Determining whether a project will require one or more development approvals under these regulations;
- b) Providing applicants with the necessary form(s) to apply for the required approval(s);
- c) Notifying applicants of the fees or other charges that the town may charge in relation to the application or proposed development; and
- d) Informing applicants that state permits may be required for the proposed development and recommending that applicants contact the state permit specialist at the Springfield Regional Office of the Vermont Department of Environmental Conservation.

Applicant. The applicant must:

- a) Submit all required forms, supporting materials and fees to the Administrative Officer to apply for a development approval under these regulations;
- b) Provide all the information necessary to demonstrate compliance with these regulations; and
- c) Certify, by signing the application form, that all the information provided is complete and accurate to the best of his/her knowledge.

Determination of Completeness. The Administrative Officer must:

- a) Determine whether an application is complete promptly and in no case more than 15 days after the applicant submits it; and
- b) Inform the applicant of his/her determination of completeness. If the application is incomplete, the Administrative Officer must inform the applicant in writing of what additional information is required.

Waiver of Application Requirements. The Administrative Officer:

- a) ~~Will~~ May waive requirements for professionally prepared site plan drawings (Subsection 4302.A) for minor site plan applications that do not involve major physical changes to the exterior of a structure or to the site;

- b) ~~Will waive requirements for site plan drawings (Subsection 4302.A) for sign applications;~~
- c) Will waive the requirement for submitting a full boundary survey of a lot subject to a lot line adjustment or lot merger if the lot is more than 10 acres in size;
- d) ~~Will waive the requirement for submitting a full boundary survey of a parent parcel provided that the retained portion is more than 10 acres in size and is not less than 70% of the total acreage before subdivision.~~
- e) May waive an application requirement upon written request by the applicant and upon the applicant demonstrating that the information is not necessary to determine compliance with these regulations;
- f) May require an applicant to provide additional information as necessary to determine compliance with these regulations; and
- g) Must keep written documentation of any application requirement waived or additional material requested as part of his/her office records and submit that information to the Development Review Board with the application. The Development Review Board may require an applicant to provide additional information, including an application requirement waived by the Administrative Officer, if necessary to determine compliance with these regulations (see Subsection 4503.G).

Referral to Development Review Board. Once the Administrative Officer determines that an application is complete, he/she must warn a public hearing on the application by the Development Review Board at their next available regularly scheduled meeting following the warning period required under Section 4501.

Appeal of Administrative Actions. The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4402.

4302. Application Requirements

Major Site Plan or Subdivision Plan. *Applicants must submit a site or subdivision plan with any application for a development approval that at a minimum conforms to the specifications below and any application checklists provided by the Administrative Officer unless a specific requirement is waived in accordance with Subsection 4301.E. It is the applicant's responsibility to provide the information necessary to demonstrate compliance with these regulations. As per Section 4301 and Subsection 4503.G, the Administrative Officer or Development Review Board may require an applicant to provide additional materials.*

- a. **Scale.** All plan drawings must be to scale. Site plan drawings should be at a scale of 1 inch = 30 feet or less whenever possible.
- b. **Project Narrative.** The applicant must submit a written statement demonstrating that the proposed development conforms to the applicable standards of these regulations by listing the facts and reasons why the application meets each of the applicable criteria of Figure 4-01.

- c. **Site or Subdivision Plan Drawing(s).** The applicant must submit a site or subdivision plan drawing(s) that includes the following information:
 - i. **Drawing Details.** Drawing details must include:
 1. The location of all existing and proposed lot lines, building envelopes, setbacks, easements or rights-of-way, monuments or survey pins;
 2. The location of significant natural, historic or archeological resources including but not limited to: watercourses, wetlands, flood hazard areas, fluvial erosion hazard areas, steep slopes, critical wildlife habitat and rare, threatened or endangered species (applicants may rely on the information available from the Vermont Natural Resource Atlas or may provide field assessments and delineations prepared by a qualified professional);
 3. Existing and proposed contours (applicants may rely on lidar generated contours available from the Vermont Center for Geographic Information or may provide a topographic survey prepared by a qualified professional);
 4. The location, height, footprint and use of all structures and impervious surfaces;
 5. The location and use of all greenspace, open space and green stormwater infrastructure;
 6. The location and use of all existing and proposed utilities and associated easements; and
 7. The location and dimensions of all existing and proposed roads, sidewalks and walkways, bikeways and paths, driveways, parking facilities, loading spaces, mechanicals and utilities (on-site generators, substations, utility cabinets, utility poles, etc.) dumpster or waste storage locations, snow storage locations, points of access to surrounding roads, points of access to surrounding bike and sidewalk network, and associated easements.
- d. **Lighting Plan Drawing(s).** When outdoor lighting will be installed or modified, applicants must submit a lighting plan drawing(s) that includes provide the following information:
 - i. Location, height and initial output (measured in lumens) of all proposed outdoor light fixtures to be installed and existing outdoor light fixtures to be retained; and
 - ii. Specifications of all proposed light fixtures including any shields, mounting hardware, pole types and heights, and bases demonstrating compliance with the requirements of Section 3102.
- e. **Landscape Plan Drawing(s).** When landscaping will be installed or modified, applicants must submit a landscape drawing(s) that includes the following information:
 - i. Location and species of all plant materials that will be used to meet landscaping or screening requirements under these regulations;
 - ii. Existing and proposed amenities associated with the landscape plan (hardscapes, fencing, walls, recreation facilities, benches, trash receptacles, bike racks, other site furniture, public art, etc.).
- f. **Architectural Drawing(s).** When the project involves construction of a new principal building or major exterior modifications to an existing principal building, applicants must submit building elevations and other architectural drawings as necessary to demonstrate compliance with the applicable standards of these regulations.

g. **Erosion Control and Stormwater Management Plan Drawing(s).** When the provisions of Section 3012 and/or Section 3024 apply to proposed development, applicants must submit erosion control and/or stormwater management plan drawing(s) that demonstrate compliance with Section 3012 and/or Section 3024 as applicable.

ii. **Signage Plan.** *Applicants must submit a signage plan with any application for a zoning permit or development approval that involves the installation or modification of a sign that includes all required elements listed below unless a specific requirement is waived in accordance with Subsection 4301.E:*

- Type, location, height and area, **and lighting** of all existing and proposed signs;
- Design, materials and colors of all existing and proposed signs;** and
- Location, type and initial output (measured in lumens) of all existing and proposed sign lighting.**

iii. **State Highways: Highway Access:** *Applicants must submit a letter of intent or an access permit from the Vermont Agency of Transportation **or the Londonderry Road Commissioner as appropriate**, with any application for proposed development that involves access to a state highway.*

4303.Sign Review

Applicability. *The provisions of this section will apply to any application for a new or modified sign associated with an existing use or with a use not subject to site plan review. All other signs will be reviewed as part of the site plan review for the proposed development (see Section 4304).*

Review Process. *The Administrative Officer:*

- May approve, deny or refer sign applications to the Development Review Board;
- Must act on a complete sign application following the same process established for zoning permit applications in **Subchapter** **Section** 420;
- Must find that the proposed sign conforms to the standards of Section 3107 before approving a sign application; and
- May approve a sign application with conditions as necessary to ensure compliance with these regulations.

a) **Appeal of Administrative Actions.** *The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4402.*

4304. Site Plan Review

Applicability. All proposed development other than:

*a single-unit or two-unit dwelling, and
any accessory uses or structures to such a dwelling,
signs
temporary structures*

requires site plan approval before the Administrative Officer may issue a zoning permit.

Purpose. The purpose of site plan review is to ensure that:

- a) The physical aspects of proposed development comply to all applicable provisions of these regulations;
- b) Proposed development is of high quality and designed with landscaping, screening, outdoor lighting, signage, building form and mass, and architectural details that will be compatible with and enhance its setting;
- c) Proposed development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible;
- d) Access, driveways, parking facilities, emergency access, utilities and other infrastructure are adequate and available to support the proposed development;
- e) Proposed development is designed and constructed to conserve energy and be energy efficient; and
- f) Proposed development is designed and constructed to avoid, mitigate and/or minimize (listed in order of preference) adverse environmental effects to the greatest extent feasible.

Classification. The Administrative Officer will classify a site plan application for proposed development as follows:

- a) **Minor Site Plan.** The Administrative Officer reviews minor site plans in accordance with Subsection 4304.D. Proposed development that does not meet the definition of a major site plan in Paragraph (2) below will be a minor site plan.
- b) **Major Site Plan.** The Development Review Board reviews major site plans in accordance with Subsection 4304.E. Proposed development that includes any of the following will be a major site plan:
 1. *Commencement of a new conditional use (this will not be interpreted to include expansions of an existing conditional use or the commencement of a new accessory use to an existing conditional use);*
 2. *Construction or major renovation of a principal building (as defined in 5003.S(16)) or of an accessory building with a footprint greater than 500 square feet;*
 3. *Any increase in the number of dwelling units within a building resulting in the total number of dwelling units in the building being 5 or more;*

- 4. Construction of a new access (this will not be interpreted to include modification of existing access); or*
- 5. Any increase of 2,500 ~~½ acre~~ square feet or more in impervious surface on a lot (this will not be interpreted to include resurfacing of existing impervious surfaces).*

Minor Site Plans. The Administrative Officer:

- a) Must act on a complete minor site plan application following the same process established for zoning permit applications in ~~Subchapter~~ Section 420;
- b) May approve, deny or refer minor site plan applications to the Development Review Board;
- c) Must find that the proposed development meets all of the applicable criteria specified in Figure 4-01 before approving a site plan application; and
- d) May approve a minor site plan application with conditions as necessary to ensure compliance with these regulations.

Major Site Plans. The Development Review Board:

- a) Must hold a public hearing and issue a decision on a site plan application in accordance with ~~Subchapter~~ Section 450;
- b) Must find that the proposed development meets all of the applicable criteria specified in Figure 4-01 before approving a site plan application; and
- c) May approve a site plan application with conditions as necessary to ensure compliance with these regulations.

Appeal of Administrative Actions. *The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4402.*

4305. Conditional Use Review

Applicability. *The commencement of a new conditional use or an expansion, intensification or other major change in the operation of an existing conditional use requires approval from the Development Review Board before the Administrative Officer may issue a zoning permit. Proposed development that includes any of the following will be considered a major change to a conditional use:*

- a) Modification of any conditions of approval;
- b) Expansion of the area occupied by the conditional use by more than 500 square feet;
- c) Increase in the number of dwelling units (this will not be interpreted to include accessory dwellings in accordance with Section 3204);
- d) More than 25% increase in daily truck trips or in peak hour traffic; or

- e) Construction of 20 additional parking spaces or of an additional loading area (this will not be interpreted to include construction of previously approved reserve parking or loading spaces).

Purpose. *The purpose of conditional use review is to ensure that a proposed use will not have undue adverse effects on the character of the area, the environment and natural resources, and public roads, infrastructure, facilities or services.*

Acting on a Conditional Use Application. *The Development Review Board must hold a public hearing and issue a decision on a conditional use application in accordance with Subchapter Section 450.*

Review Criteria. *To approve a conditional use application, the Development Review Board must find that the applicant has demonstrated that the proposed development meets all of the applicable standards specified in Figure 4-01.*

Conditions of Approval. *The Development Review Board may approve a conditional use application with conditions as necessary to ensure compliance with these regulations.*

4306. Planned Unit Development Review

Review Process. *A planned unit development (PUD) will require subdivision approval under these regulations in accordance with Section 4310. If proposed development within a PUD also requires site plan and/or conditional use approval under these regulations, the Development Review Board will conduct those reviews concurrently with subdivision review in accordance with Section 4311.*

4307. Review of Lot Line Adjustments and Lot Mergers

Administrative Review. *The Administrative Officer may approve the realignment, relocation or elimination of a boundary line between adjoining lots following the same process established for zoning permit applications in Subchapter Section 420 provided that the proposed change:*

- a) Will not result in an increase in the number of lots;
- b) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity);
- c) Will not increase the degree of nonconformity of a pre-existing nonconforming lot or structure by more than 25%; and
- d) Will not violate any conditions of a prior permit or approval.

Referral for Subdivision Review. The Administrative Officer may refer applications to the Development Review Board for review as a minor subdivision. The Development Review Board may approve lot line adjustments that will increase the degree of nonconformity of a pre-existing nonconforming lot or structure upon the applicant demonstrating that the proposed modification meets the criteria for a waiver in Figure 4-02.

Filing Requirements. Within 180 days after the Administrative Officer approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with Subsection 4310.F.

4308. Review of Footprint Lots

Purpose. The provisions of this section are intended to allow landowners to create one or more footprint lots on a parcel if required for legal or financing reasons. A footprint lot typically includes just the land directly underneath a building, but may include up to 10 feet of land around the perimeter of a building.

Interpretation. A footprint lot will not be considered a separate parcel for the purpose of administering these regulations. Dimensional standards (such as setbacks and lot coverage) for proposed development on a lawfully created footprint lot will be based on the perimeter lot lines and total area of the parcel containing the footprint lot unless otherwise specified as a condition of approval.

Footprint Lots on Existing Parcels. The Administrative Officer may approve the creation of footprint lots on existing parcels following the same process established for zoning permit applications in **Subchapter Section 420** provided that the proposed change will:

- qq. Conform to the requirements of 27 V.S.A. Chapter 15 for the formation and governance of condominiums; and
- rr. Not violate any conditions of a prior permit or approval.

Footprint Lots on New Parcels. The Development Review Board may approve footprint lots on new parcels being created through subdivision or within a planned unit development provided that the proposed plan conforms to the requirements of 27 V.S.A. Chapter 15 for the formation and governance of condominiums.

Filing Requirements. Within 180 days after the Administrative Officer or Development Review Board approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with Subsection 4310.F.

4309. Review of Building Envelopes

Administrative Review. The Administrative Officer may approve modifications or relocations of a previously approved building envelope and may approve the designation of a building envelope on a pre-existing lot when one is required under these regulations or on a lot created through subdivision when the designation of the building envelope has been deferred under Subsection 3307.D following the same process established for zoning permit applications in Subchapter Section 420 and in accordance with the standards of Subsection 3307.C.

Referral to the Development Review Board. The Administrative Officer may refer applications to the Development Review Board for review as an amendment to an approved plan under 4312.

Filing Requirements. Within 180 days after the Administrative Officer approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with Subsection 4310.F.

4310. Subdivision Review

Applicability

ss. ~~Without~~ Before receiving subdivision approval from the DRB and ~~first~~ recording an approved subdivision plat in the town's land records in full conformance with these regulations, a landowner must not:

- i. Commence any clearing, site preparation, construction or land development on land to be subdivided for purposes other than farming or forestry in accordance with Section 1103; or
- ii. Subdivide, sell, transfer or lease land, except that he/she may:
 1. Lease land for farming or forestry purposes in accordance with Section 1103;
 2. Sell or grant rights-of-way or easements that do not result in the subdivision of land; or
 3. File boundary surveys and/or corrective deeds in the town's land records to repair boundary metes and bounds or to correct technical errors with previously recorded surveys or deeds for existing parcels with known boundaries.

The Administrative Officer must not issue any permits for land development on a lot created by subdivision until the landowner has recorded a subdivision plat in the town's land records in conformance with these regulations.

Purpose. *The purpose of subdivision review is to ensure that:*

- a) Subdivided lots are suitable for development without endangering public health, safety or welfare;
- b) Appropriate provisions are made for necessary improvements including, but not limited to, water supply, sewage disposal, stormwater management, fire and emergency protection and access, and utilities;
- c) Proposed subdivisions are complimentary to and functionally integrated with surrounding development and the town's road network to the greatest extent feasible; and
- d) Proposed subdivisions are energy efficient and avoid, mitigate and/or minimize (listed in order of preference) adverse environmental effects to the greatest extent feasible.

Sketch Plan Review and Classification (Step 1)

Application. The applicant must file a complete application and sketch plan for review by the Administrative Officer.

a. **Conservation Commission Consultation.** If the land to be subdivided is in the ~~Rural~~ RR3 district:

- i. *The Zoning Administrator will notify the Londonderry Conservation Commission of the proposed subdivision upon receipt of a complete application.*
- ii. *The Conservation Commission will have 20 days to request a pre-application advisory meeting with the applicant to discuss any important natural resources on the property and approaches to developing the property that would avoid, minimize or mitigate impacts to those resources.*
- iii. *If the Conservation Commission does not request a pre-application meeting or does not respond to the notification within 20 days, the Administrative Officer will proceed to classify the proposed subdivision and prepare a written response to the sketch plan in accordance with this section.*
- iv. *If the Conservation Commission requests a pre-application meeting, the Administrative Officer will refer the sketch plan application to the Conservation Commission. The pre-application meeting may include a site visit by the Conservation Commission in accordance with Section 4502.*
- v. *The Conservation Commission must provide any recommendations to be incorporated into the Administrative Officer's written response to the sketch plan within 45 days of the referral. The recommendations may include that the subdivision application materials required under Paragraph (4)(c) below include a natural resource inventory prepared by a qualified professional.*
- vi. *The Conservation Commission may submit evidence or testimony to the Development Review Board during any subsequent hearings on the subdivision*

application.

vii. Upon receiving recommendations from the Conservation Commission or the 46th day following referral of the application to the Conservation Commission, the Administrative Officer will proceed to classify the proposed subdivision and prepare a written response to the sketch plan in accordance with this section.

b. **Notification.** The Administrative Officer must notify the owners of all properties adjoining the subject property (including those across the road) in writing of the applicant's intent to subdivide the subject property. The notification must include a description of the proposed subdivision and must clearly explain to the recipient where to obtain additional information.

c. **Classification.** The Administrative Officer will classify an application for a proposed subdivision as follows:

i. **Major Subdivision.** An applicant for a major subdivision approval must submit a preliminary and final plan for review and approval by the Development Review Board in accordance with the provisions of this section. A subdivision that includes any of the following will be a major subdivision:

1. The creation of 6 or more lots from one or more contiguous tracts of land under common ownership in any 5-year period (inclusive of the parent parcel);
2. The re-subdivision of a lot within 5 years (will not be interpreted to include lot line adjustments, lot mergers or the creation of footprint lots); or
3. The construction of a new, extended or upgraded road.

ii. **Minor Subdivision.** An applicant for a minor subdivision-without roads-approval may skip the preliminary approval process and submit a final plan for review and approval by the Development Review Board in accordance with the provisions of this section. A subdivision that does not meet the definition of a major subdivision will be a minor subdivision.

iii. **Two Lot Subdivisions: Site Plan Review** for subdivisions to create two lots from one may be done by administrative permit without a hearing or conservation commission review. A proposal to re-subdivide a lot within a 10 year period will not meet this exemption.

d. **Written Response.** The Administrative Officer must send the applicant a written response to a complete sketch plan application within 30 days of its filing that:

- i. Indicates whether the subdivision as proposed generally conforms to the standards of these regulations;
- ii. Makes recommendations to guide the applicant in preparation of more detailed plans;
- iii. Requests any additional application materials deemed necessary to determine compliance with these regulations; and
- iv. Classifies the proposed subdivision as either a major or minor subdivision in accordance with Paragraph (4) above.

Commented [WG44]: Since changed to 1. Minor Subdivision, 2. Major subdivision with no new roads and 3. Major Subdivision with Roads.

- e. **Deadline to Act.** After the Administrative Officer issues the written response, the applicant will have 6 months to file the materials required for the next step of the subdivision review process.
- f. **Appeals.** The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4402. However, the Administrative Officer's actions under this section will not constitute a formal decision on the subdivision plan for the purposes of any appeal to the Environmental Division of the Vermont Superior Court.

Preliminary Plan Review (Step 2 for major subdivisions only)

- a. **Application.** An applicant for major subdivision approval must file a complete application and preliminary subdivision plan for consideration by the Development Review Board.
- b. **Hearing and Notice.** The Development Review Board must hold a public hearing and act on a preliminary subdivision plan in accordance with **Subchapter Section 450**.
- c. **Written Response.** The Development Review Board must issue a written response to the preliminary plan that includes:
 - i. *Findings of fact that address each of the applicable criteria in Figure 4-05;*
 - ii. *Any proposed conditions of approval to be placed on the final plan;*
 - iii. *Any specific changes requested in the final subdivision plan;*
 - iv. *The issues to be analyzed and addressed in the final subdivision plan review;*
 - v. *Any modification or waiver of application requirements for final plan review. The Development Review Board may:*
 - 1. Request any additional application materials deemed necessary to determine compliance with these regulations; and
 - 2. Modify or waive application requirements deemed unnecessary to determine compliance with these regulations.
- d. **Deadline to Act.** Following the Development Review Board issuing a written response, the applicant will have 6 months to file the final subdivision plan.
- e. **Appeals.** The written response to a preliminary subdivision plan is intended to provide direction to the applicant in preparing the final subdivision plan. It is not a binding decision on the subdivision application that can be appealed under Section 4403.

Final Plan Review (Step 2 for minor subdivisions and Step 3 for major subdivisions)

- a. **Application.** The applicant must file a complete application and final subdivision plan for consideration by the Development Review Board.
- b. **Purpose.** The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and to assure that the applicant has addressed the issues raised in the preliminary plan review.

- c. **Hearing and Notice.** The Development Review Board must hold a public hearing and act on a final subdivision plan in accordance with **Subchapter** **Section** 450. If a proposed subdivision will be located within 500 feet of the town line, a copy of the hearing notice must be sent to the clerk of the adjoining municipality.
- d. **Acceptance of Improvements.** The Development Review Board's approval of a final plan will not constitute the town's acceptance of any road, easement, open space or other feature shown on the plan. Action by the Selectboard is required to accept any road, easement, open space or other feature.

Filing Requirements (Step 3 for minor subdivisions and Step 4 for major subdivisions)

- a) If the Development Review Board approves the final plan, the applicant will have 180 days to submit a final subdivision plat for recording in the town's land records. If the subdivision will be phased, the applicant must file a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the conditions of approval.
- b) The Administrative Officer may grant a 90-day extension to the filing deadline upon written request by the applicant if other local or state permits are still pending.
- c) The final subdivision plat must meet all state requirements (see 27 V.S.A. § 1403).
- d) The Administrative Officer or the Chair of the Development Review Board must sign the final subdivision plat before it is recorded in the town land records.
- e) No one must make any changes, erasures, modifications or revisions to a final plat after it has been signed.
- f) Once lawfully filed, a final subdivision plat will not expire.
- g) Applicants are advised to file new or revised deeds in accordance with state law for all lots created by or subject to a subdivision approval when filing a plat to ensure the affected properties have marketable titles.

ii. Modification of Approved Subdivisions

- a. Except for lot line adjustments or lot mergers approved under Section 4307 or footprint lots approved under Section 4308, the Development Review Board must review any request to amend an approved subdivision plat.
- b. The process for applying for an amendment will be the same as for the original approval.
- c. The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plat affected by the proposed amendment.
- d. The applicant must file an approved, amended plat in accordance with the provisions of Subsection 4310.F.

4311. Combined Review

When proposed development requires more than one approval, the Development Review Board must warn and hold a single hearing for the purpose of reviewing and acting on the application unless the applicant requests separate hearings for each approval.

The Administrative Officer will identify applications appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

The Development Review Board must hold a public hearing and act on an application for combined review in accordance with Subchapter Section 450. In addition, the hearing notice must:

- a) Include a statement that the hearing will be a combined review of the proposed development; and
- b) List each type of review the Development Review Board will conduct.

All hearing and decision requirements and deadlines applicable to each review process will apply.

The Development Review Board may issue separate written decisions for each review conducted as part of the combined hearing, but decisions should be coordinated where appropriate.

4312. Amending Approved Plans

The Development Review Board must review any request to amend an approved plan that the Administrative Officer cannot approve under Section 4204. For amendment of subdivision plats, see Subsection 4310.G.

The process for applying for an amendment will be the same as for the original approval.

The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the approved development affected by the proposed amendment.

The applicant must demonstrate that the proposed amendment is justified due to changes:

- a) In factual or regulatory circumstances that were beyond the applicant's control; or
- b) In the construction or operation of the proposed development that were not reasonably foreseeable at the time of the original application.

The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated development approvals.

The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

i. Development Review Criteria

CRITERIA	SITE PLAN	CONDITIONAL USE	PUD OR SUBDIVISION
1 The dimensional standards of the proposed development conform to the standards of the applicable district or of Subchapter Section 130 if a pre-existing nonconformity.	✓	✓	✓
2 The off-site impacts of the proposed development will not exceed the levels established in Section 3105.	✓	✓	-
3 The proposed development will provide safe and adequate access and circulation that conforms to the standards of Section 3002.	✓	✓	✓
4 The proposed development will provide sufficient parking and loading areas that conform to the standards of Section 3104.	✓	✓	-
5 The proposed development will provide exterior lighting where necessary for public safety and to facilitate nighttime use that conforms to the standards of Section 3102.	✓	✓	✓
6 The proposed development will include landscaping, screening and buffers to add visual appeal and mitigate off-site impacts that conform to the standards of Section 3101 and Section 3106.	✓	✓	✓
7 The proposed development will implement appropriate erosion control and stormwater management practices that conform to the standards of Section 3012 and Section 3024.	✓	✓	✓
8 Signs for the proposed development will conform to the standards of Section 3107.	✓	✓	✓
9 The proposed development will conform to town (or state, if applicable) specifications for construction of necessary improvements (roads, sidewalks, driveways, utilities, etc.), building codes, and standards for emergency service access.	✓	✓	✓
10 The demand for water supply, wastewater, educational and municipal services to serve the proposed development will be reasonable and will not create an undue adverse effect upon the capacity existing or planned community facilities.	-	✓	✓
11 The proposed development will be compatible with and will not have undue adverse effects on the character of the area as defined in Paragraph 5003.C(1).	-	✓	✓
12 Traffic generated by the proposed development will not exceed the capacity of or create congestion or unsafe conditions on roads, highways and intersections in the vicinity.	-	✓	✓
13 The proposed development will avoid, minimize and/or mitigate (listed in order of preference) undue adverse effects on significant natural resources and environmental quality.	-	✓	✓
14 The proposed development will logically extend existing settlement patterns and create interconnected road networks to the maximum extent feasible given the terrain and other characteristics of the land.	-	-	✓
15 The proposed development will be designed and laid out to make efficient use of land and to minimize the amount of roads and other infrastructure necessary to serve the lots.	-	-	✓
16 Lots within the proposed development will vary in size and frontage, and buildings will vary in design (form, style, color, materials, etc.) and placement, to replicate rural or village settlement patterns (i.e., not a 'cookie-cutter' subdivision).	-	-	✓

4400.Appeals

4401.Who May Appeal

*An applicant or other interested person may appeal an action taken or decision made under these regulations as specified in this **Subchapter** **Section**.*

For the purposes of these regulations, an interested person is:

- a. An applicant who alleges that these regulations impose unreasonable or inappropriate restrictions on the existing or future use of his/her property.
- b. The Town of Londonderry or any adjoining municipality.
- c. A person owning or occupying property in the immediate area of proposed development who can demonstrate:
 - i. *A physical or environmental impact on his/her interests; and*
 - ii. *That the action taken or decision made under these regulations is not in accord with the policies, purposes, or terms of these regulations or the Londonderry Town Plan, as most recently adopted.*
- d. Any combination of at least 10 voters or landowners in Londonderry who by signed petition allege that the relief an applicant is requesting under this **Subchapter** **Section** is not in accord with the policies, purposes, or terms of these regulations or the *Londonderry Town Plan*, as most recently adopted.
- e. Any department or administrative subdivision of the state that owns property or interest in property in Londonderry, and the Vermont Agency of Commerce and Community Development.

4302.Appeals of Administrative Officer Decisions

An interested person may appeal any action or decision of the Administrative Officer to the Development Review Board by filing two copies of a notice of appeal and any applicable fees with the Londonderry Town Clerk within 15 days of the date of the Administrative Officer's action or decision.

The Town Clerk will forward one copy of the notice of appeal to the Development Review Board and the other to the Administrative Officer.

A notice of appeal must be in writing and must include all of the following information:

- a. The name and address of the appellant (the person filing the appeal);
- b. A statement that indicates how the appellant meets the definition of an interested party as established in Section 4401;
- c. A copy of the Administrative Officer's decision or description of the action (if appealing a zoning permit, also include a copy of the permit application);
- d. A brief description of the subject property;

- e. A reference to the section(s) of these regulations that the appellant alleges the Administrative Officer has not properly followed or applied; and
- f. A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances.
 - i. *If an appeal is filed by a group of interested persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.*
 - ii. *The appellant may request a stay of enforcement as part of the notice of appeal by including a sworn statement that irremediable damage will directly result if the Development Review Board does not grant the stay.*
 - iii. *Upon receipt of a notice of appeal, the Development Review Board must either:*
- g. Hold a public hearing and act on the appeal in accordance with Chapter 450; or
- h. Reject the appeal without a hearing and render a decision within 10 days of the appellant filing the notice, if the Development Review Board determines that:
 - i. *It decided the issues in an earlier appeal;*
 - ii. *The appellant failed to establish interested person status in accordance with Section 4401; or*
 - iii. *The notice of appeal does not meet the requirements of Subsection 4402.C.*

An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Administrative Officer.

no interested person appeals the Administrative Officer's action or decision to the Development Review Board within 15 days, the action or decision is final and cannot be contested at a later time.

XXXX Motions to Reconsider:

Procedure:

An appellant who wishes the Planning Commission/ Zoning Board of Adjustment to reconsider a decision they have rendered shall:

1. Submit a letter asking for a Motion to Reconsider which either:
 - Clearly establishes a manifest error of law or fact in the decision or
 - presents previously unavailable evidence.
2. The Motion must be filed within 30 days of the DRB's decision.
3. The filing of a Motion stays the appeal period until a decision is made to deny the Motion or until a new decision is issued following a reopening and closing of the hearings.
4. A new appeal period starts upon the date of the denial of the Motion or issuance of a decision.
5. The motion shall be put on the agenda of an open meeting of the Planning Commission/ Zoning Board of Adjustment. A majority of the Board must vote to grant the Motion and re-open the evidence.

6. If the Motion is granted, then a new hearing will be warned to hear evidence in regard to the matters raised and any other evidence offered in regard to the application and a decision will be issued in the normal course (which decision could be as previously issued without change or with revisions)

7. A party is entitled to only one Motion to Reconsider per DRB decision, after which the may appeal to the District Court.

Commented [WG45]: state court rules

4403. Appeals of Development Review Board Decisions

Any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the date of the board's action or decision.

All final hearings for site plan, conditional use and subdivision applications, and for appeals (including variances and waivers) before the Development Review Board will be subject to on the record appeal in accordance with the Vermont Rules of Civil Procedure.

The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Administrative Officer must provide a prospective appellant with the interested person list upon request.

If the Administrative Officer has issued a zoning permit based on a Development Review Board approval, the appeal of that approval will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved. An interested person cannot use the procedures of Section 4402 to appeal the Administrative Officer's issuance of a zoning permit implementing a Development Review Board approval.

An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.

If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, that action or decision will be final and cannot be contested at a later time.

4404. Waivers

The Development Review Board:

~~May approve waivers that authorize an adjustment of up to 25% to a dimensional standard (as established for the applicable zoning district) of these regulations; The DRB may grant a waiver for a porch, deck, entryway, or other minor addition to an existing building provided one of the following conditions are satisfied:~~

1. The proposal is for an addition which does not increase the building's degree of conformity.
2. The proposal is for an addition to an existing principal structure that does not increase the footprint of the structure by more than 200 square feet.
3. The proposal is for an accessory structure or an addition to an accessory structure that does not increase the lot coverage by more than 200 square feet.
4. The addition is the minimum size that is necessary for it to serve its intended function.
5. The addition is specifically intended to improve access for disabled persons, or to improve fire safety.
6. No setback (front, side, or rear) shall be reduced to less than 25 feet in RR3, SC, or less than 10 feet in RC, RR-1, VR or VC

The DRB must not:

- a. ~~Must not~~ approve waivers within the Flood Hazard Overlay District;
- b. ~~Must not~~ approve waivers to reduce any riparian or wetland setback or buffer required under these regulations; and
- c. ~~Must not~~ approve a waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

The applicant must file a complete zoning permit application and a written request for a waiver with the Administrative Officer that includes all the following:

- d. A brief description of the subject property and proposed development;
- e. A reference to the dimensional standard(s) of these regulations that the applicant is requesting a waiver from;
- f. The specific modification(s) that the applicant is requesting; and
- g. A response to each of the criteria that the Development Review Board will use to decide whether to approve the waiver (see Figure 4-02).

The Development Review Board must hold a public hearing and act on the waiver request in accordance with Chapter 450. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

To approve a waiver, the Development Review Board must find that all the applicable criteria specified in Figure 4-02 have been met.

The proposed development will not alter the essential character of the area in which the property is located.

The proposed development will not substantially or permanently impair the lawful use or development of adjacent property.

The proposed development will not be detrimental to public health, safety or welfare.

The proposed development is beneficial or necessary for the continued reasonable use of the property.

The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.

The DRB may require mitigation through visual screening or other remedies.

4405.Variances

The Development Review Board:

- a. May approve variances that authorize adjustments to the dimensional standards of these regulations under the specific circumstances described in this section.
- b. Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

The applicant must file a complete zoning permit application and a written request for a variance with the Administrative Officer that includes all the following:

- a) A brief description of the subject property and proposed development;
- b) A reference to specific provision(s) of these regulations that the applicant is requesting a variance from;
- c) The specific modification(s) that the applicant is requesting; and
- d) A response to each of the criteria that the Development Review Board will use to decide whether to approve the variance (see Figure 4-02).

The Development Review Board must hold a public hearing and act on the variance request in accordance with Chapter 450. If the applicant is requesting a variance from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

To approve a variance, the Development Review Board must find that all the applicable criteria specified in Figure 4-02 have been met as follows:

- a) If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply;
- b) If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply; or
- c) For all other variances, the general variance criteria apply.

ii. Waiver and Variance Review Criteria

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 The proposed development will not alter the essential character of the area in which the property is located.	✓	✓	✓	✓
2 The proposed development will not substantially or permanently impair the lawful use or development of adjacent property.	✓	✓	✓	✓
3 The proposed development will not be detrimental to public health, safety or welfare.	✓	✓	✓	✓
4 The proposed development is beneficial or necessary for the continued reasonable use of the property.	✓	-	-	-
5 The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	✓	-	-	-
6 The applicant has not created the unnecessary hardship.	-	✓	✓	✓
7 The applicant is proposing the least deviation possible from these regulations that will afford relief.	-	✓	✓	✓
8 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. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	-	✓	-	✓
9 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	-	-	✓	-
10 The proposed development will not reduce access to renewable energy resources on adjacent property.	-	-	✓	-
11 The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	-	-	-	✓

4500. Notice, Hearings and Decisions

4501. Notice of Hearing

The Administrative Officer must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision or planned unit development applications by all the following:

1. Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Londonderry.
2. Posting the date, place and purpose of the hearing at the Town Office and at least one other public place within Londonderry.
3. Providing the applicant with a ~~sign~~ **permit notice poster** with the date, place and purpose of the hearing to be posted on the subject property within ~~view of a public way~~^{view}.
4. *It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.*
5. Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
6. *The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.*

The Administrative Officer must notify the public at least 7 days before a hearing for all other Development Review Board actions by all the following:

- a. Posting the date, place and purpose of the hearing at the Town Office and at least two other public places within Londonderry.
- b. Providing the applicant with a **permit notice poster** with the date, place and purpose of the hearing to be posted on the subject property within ~~view of a public way~~^{view}.
- c. *It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.*

- a. Notifying the owners of all properties adjoining the subject property subject (including those across the road) in writing. The notification must:
 - i. *Include a description of the proposed project;*
 - ii. *Identify where the recipient can obtain additional information; and*
 - iii. *Explain that the recipient must participate in the hearing in order to have the right to any subsequent appeal.*

d. *The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.*

3. *A defect in the form or substance of the public notice requirements will not invalidate any action or decision under these regulations when a reasonable effort has been made to provide adequate posting and notice.*

4502. Site Visits

The Administrative Officer or Development Review Board may require an applicant to grant them access to a site in order to better understand the proposed development and its potential impacts prior to making a decision on an application.

Development Review Board members may visit a site individually or as a group. A site visit must be noticed in accordance with Section 4501 and open to the public if a quorum of Development Review Board members will be present.

Observations made and information obtained during the site visit will not be part of the evidentiary record of a Development Review Board hearing unless the Development Review Board or an interested person requests to have the observations or information entered into the record during the hearing on the application.

4503. Conducting a Hearing and Taking Evidence

The Development Review Board must conduct public hearings, hear testimony and take evidence according to the Municipal Administrative Procedures Act (24 V.S.A. Chapter 36), the provisions of this section and its adopted rules of procedures.

The Development Review Board must hold a public hearing within 60 days of the Administrative Officer determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.

All hearings must be open to the public as follows:

- Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel or may submit written testimony in advance of the hearing.
- The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- The Development Review Board must give all those wishing to establish interested person status the opportunity to do so and must record the name, address and participation of each of those people. Only an interested person (as defined in Section 4401) who has participated in a hearing by presenting oral or written testimony will have a right to appeal the resulting Development Review Board decision under Section 4403.

In taking evidence during a hearing, the Development Review Board may:

- Exclude irrelevant, immaterial, or unduly repetitious evidence;
- Receive evidence in written form, including copies and excerpts;
- Allow parties to conduct cross-examinations and compare copies of written evidence with the original; and
- Take notice of generally recognized facts.

The applicant or an authorized representative must be ~~present at~~ attend any public hearing on his/her application in person or on line..

- The Development Review Board may recess or continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
- In the case of such a recess or continuation, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.

Development Review Board members must not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed site visit or hearing.

It is the applicant's responsibility to demonstrate compliance with the applicable standards and review criteria of these regulations. The Development Review Board may recess or continue a hearing and require an applicant to provide additional information as necessary to determine compliance with these regulations.

4504.Recessing or Continuing a Hearing

The Development Review Board may recess or continue a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.

If the Development Review Board recesses or continues a hearing to a specific date and time, the hearing will not have to be warned again when resumed.

4505.Decisions

Deliberations. *The Development Review Board must deliberate and make a decision on an application in a closed deliberative session.*

Time to Act. *Within 45 days of closing a hearing, the Development Review Board must issue a written decision to approve, approve with conditions or deny the application.*

Deemed Approval. *If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board's failure to act resulted in a "deemed approval" of the application.*

Findings. *The written decision must include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of these regulations.*

Conditions of Approval. *The Development Review Board:*

May attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:

- i. *Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;*
- ii. *Required improvements to public facilities or infrastructure to serve the proposed development;*
- iii. *Scheduling or phasing of development;*
- iv. *Inspection or monitoring; and/or*
- v. *Performance bonds.*

Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board's approval will be considered part of any subsequent zoning permit issued by the Administrative Officer for the approved development.

Submittal of Revised Plans. *If the Development Review Board attaches conditions on an approval that require amendments to a plan, the applicant must submit an amended plan that satisfies those conditions prior to Administrative Officer issuing a zoning permit for the proposed development.*

Notification and Filing. *The Development Review Board or the administrative officer must:*

- Send a copy of the decision to applicant by certified mail;
- Send a copy of the decision to all others who participated in the hearing **by mail or email**; and
- File a copy of the decision **with the Administrative Officer in the town's land records**.

Effect and Expiration. *If the approved development is:*

- Not substantially completed or commenced before the zoning permit expires as established in Section 4203, the development approval will expire with the zoning permit, except that approved subdivision plats lawfully filed in accordance with Subsection 4310.F will not expire.
- Substantially completed or commenced before the zoning permit expires as established in Section 4203, the development approval will remain in effect unless the use is discontinued as established in Section 1205. Development Review Board approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership.

4600. Violations and Penalties

4601. Applicability

Enforcement Required. *The Administrative Officer must act to enforce these regulations in accordance with state law and the provisions of this chapter. Violations of these regulations include, but are not limited to:*

- Commencing land development for which zoning permit or development approval is required without first obtaining such an approval or permit;
- Failing to comply with all requirements, representations and conditions of any approved plan or permit;
- Commencing or continuing land development if the permit or approval authorizing the work has expired;
- Commencing clearing, site preparation or other land development prior to subdivision approval; and
- Selling, transferring or offering to sell or transfer land unless a subdivision plat has been approved and filed in full compliance with these regulations.

Civil Ordinance. *A violation of these regulations will constitute a civil offense enforced in accordance with the provisions of 24 V.S.A. §1974(a) or 24 V.S.A. §4451.*

Public Health, Safety and Welfare. *Nothing in this chapter will prevent the Town of Londonderry from exercising its authority to abate or remove risks or hazards to public health, safety and welfare, or to respond to emergencies or disasters.*

ii. Investigation and Action by the Administrative Officer

Investigation. *The Administrative Officer must investigate alleged violations of these regulations observed by or reported to him/her.*

Inspection. *The Administrative Officer may ask the landowner for permission to inspect the property. If the landowner refuses to grant permission to inspect the property, the Administrative Officer:*

- May enter the public portions of any property in town (i.e., drive up driveway, walk to the door, etc.) and may use any observations made as evidence;
- May enter private portions of the property if invited by anyone who is lawfully on the premises (i.e., occupant, tenant, etc.) and may use any observations made as evidence; and
- May obtain a search warrant to inspect the property and gather evidence in accordance with 13 V.S.A. §4701.

Burden of Proof. *The Administrative Officer does not have to directly observe that a violation exists and may start the enforcement of these regulations as long as he/she has reason to believe a violation exists (i.e., ~~based on a~~ complaint from a neighbor, evidence of materials being hauled/delivered, observations from adjacent property or the road, refusal to allow inspection, etc.).*

Action. Upon determining that a violation exists, the Administrative Officer must take appropriate action in an effort to enforce these regulations including, but not limited to any combination of the following:

- a) Issuing a municipal civil complaint ticket (see Section 4604) or a notice of violation (see Section 4605);
- b) Issuing a stop-work order;
- c) Requiring the landowner to apply for a curative zoning permit;
- d) Requiring the immediate removal of a violating structure or cessation of a violating use;
- e) Denying a certificate of zoning compliance; and/or
- f) Imposing fines and penalties to the maximum extent allowed under state law until the landowner remedies the violation.

Limitations on Enforcement. *The Administrative Officer must not enforce any violation:*

- a) That has existed for more than 15 years; or
- b) Of a zoning permit issued after July 1, 1998 that was not filed in the town's land records.

4603. Liabilities and Penalties

The landowner will be held responsible for any violation and be subject to any penalties imposed under these regulations.

Each day that a violation exists constitutes a separate offense under Section 4604 and Section 4605. Separate tickets may be issued and fines imposed for each day that a violation exists.

If any enforcement action results in the need for a new or amended zoning permit or development approval, Londonderry may impose penalties in addition to the standard permit fees.

4604. Municipal Civil Complaint Ticket

As authorized under 24 V.S.A. § 1974a, the Administrative Officer or other authorized town staff may issue a municipal complaint ticket for any violation of these regulations as a violation of a civil ordinance in accordance with the Judicial Bureau's procedure for municipal complaint tickets.

A violation ticketed under this section may be punishable by a fine of:

- a) \$200 for a first offense, with a **waiver fee** of \$100.

- b) \$400 for a second offense ticketed for the same violation within one year, with a waiver fee of \$200.
- c) \$800 for a third and any subsequent offense ticketed for the same violation within one year, with a waiver fee of \$400.

Upon the fourth offense, the Town of Londonderry may request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

4605. Notice of Violation

As authorized under 24 V.S.A. § 4451, the Administrative Officer may issue a notice of violation for any violation of these regulations. Prior to issuing a notice of violation in accordance with Subsection 4605.B, the Administrative Officer may seek to resolve a violation informally.

The Administrative Officer must:

1. Send a notice of violation to the landowner by certified mail that:
 - i. Describes the violation;
 - ii. Identifies the specific provision(s) of these regulations being violated;
 - iii. States the specific action required to cure the violation (see Subsection 4602.D);
 - iv. States that if the landowner has 7 days to cure the violation, after which time the town may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
 - v. States that further enforcement may occur without notice and an opportunity to cure if the violation occurs again within the next 12 months; and
 - vi. States that the notice of violation may be appealed as per Section 4402.
2. Deliver a copy of a notice of violation to the Town Clerk for recording in the town's land records.
3. Upon failure of the landowner to cure a violation of these regulations, the Town of Londonderry may institute appropriate court action.

A notice of violation issued under this section will be punishable by a fine of up to \$200 for each offense (each day a violation continues to exist beyond the 7-day notice period counts as a separate offense).

5000. Definitions

5001. General

5002. Interpretation

The words used in these regulations have their normal dictionary meaning unless they are specifically defined in these regulations. The Administrative Officer or Development Review Board, as applicable, will interpret the meaning of any term used in these regulations. That interpretation may be appealed in accordance with the provisions in Section 4402 or Section 4403.

The words defined in these regulations have the specified meaning stated unless the context clearly indicates that they have another meaning.

The definitions identified as being from state statute are intended to be consistent with that statute.

These regulations use:

- “Must” and “will” to express that something is required;
- “Must not” and “will not” to express that something is prohibited;
- “May” and “may not” for discretionary actions; and
- “Should” and “should not” when something is encouraged or discouraged.

These regulations use:

- “Parcel” and “lot” interchangeably to refer to areas of land delineated in a recorded subdivision plat or, if no recorded plat, in a deed;
- “Site” or “property” to refer to an area of land subject to a development project, regardless of whether it is an entire parcel, a portion of a parcel, or multiple parcels;
- “Property owner”, “landowner”, “applicant”, “subdivider” or “developer” to refer to the party responsible or authorized to act under these regulations and those terms may include any individual designated to act on behalf of the responsible party;
- “Business” to refer generally to any nonresidential land use, regardless of whether it is a for-profit or non-profit enterprise; and
- “Home”, “residence” or “dwelling” to refer to a dwelling unit that is intended for occupancy by a single household regardless of structure type or tenure (owned or rented).

There are illustrations provided throughout these regulations that are intended to provide guidance to readers. In the case of a conflict between an illustration (including any associated descriptive text) and a written provision of these regulations, the written provision will take precedence.

Unless specifically stated otherwise, the calculation of time periods defined these regulations:

- As a specific number of days will be based on calendar days;
- As a specific number of months will be based on calendar months (ex. January 1 to July 1 is 6 months);
- As a specific number of years will be based on calendar years (ex. January 1 to January 1 is one year); and
- Will not include the first day (i.e., the day an application was submitted or a permit issued) but will count the final day (i.e., the day a hearing was held or a permit took effect).

5003. Use and Dimensional Standards

*All uses allowed in one or more zoning districts are defined in Section 2302.
Dimensional standards and their method of measurement are defined in Section*

5004. Defined Terms

ABANDONED DEVELOPMENT means any improvement to land, construction, demolition or alteration of a structure that is not substantially completed prior to the expiration of the zoning permit authorizing the improvement. See Section 1206.

ABANDONED SIGN. See definition of SIGN, ABANDONED.

ACCESS means a defined area designed to allow vehicles to enter/exit property from/to a road. Also referred to as a curb cut. See Section 3002.

ACCESSORY DWELLING UNIT. See definition of DWELLING UNIT, ACCESSORY.

ACCESSORY STRUCTURE. See definition of STRUCTURE, ACCESSORY.

ACCESSORY USE COMMERCIAL A secondary use at a property other than a one or two-family residence that is subordinate to the primary residential use like a garage, shed, or a restaurant at a hotel.

ACCESSORY USE, RESIDENTIAL A secondary use at a one or two-family residence that is subordinate to the primary residential use like a garage, shed, or pool.

ACTIVE OUTDOOR RECREATION. See definition of OUTDOOR RECREATION, ACTIVE.

ADVERSE EFFECT OR IMPACT means that proposed development will result in a substantial and material negative effect or impact that will prevent or diminish the reasonable use of property in the area, cause environmental damage or pollution, not conform to the performance standards of Section 3105, or damage or exceed the capacity of public infrastructure, services or facilities.

AFFORDABLE HOUSING as defined in state statute means:

- *Ownership housing with a total housing cost (principal, interest, taxes, insurance and condominium association fees) that does not exceed 30% of the gross annual income of a household earning up to 120% of the median income in Windham County or Vermont, whichever is greater; or*
- *Rental housing with a total housing cost (rent, utilities and condominium association fees) that does not exceed 30% of the gross annual income of a household earning up to 80% of the median income in Windham County or Vermont, whichever is greater; and*
- *That is subject to covenants or restrictions that will preserve that affordability for at least 15 years.*

AGRICULTURAL FENCE. See definition of FENCE, AGRICULTURAL.

AIRCRAFT means a contrivance used or designed for navigation of or flight in the air. It specifically includes ultra-light aircraft and excludes drones.

ALTERATION means any addition or structural change to, or relocation of, a structure including, but not limited to, **the addition of a dormer**, any change in the structure's **dimensions footprint, floor area**, or the number of units (residential or non-residential), or an increase in number of bedrooms in a dwelling unit. This definition specifically excludes normal repair and maintenance.

APPLICANT means the owner of land to be developed under these regulations or a representative who has been duly authorized in writing by the owner to act as an authorized agent on the owner's behalf. Any other party with an interest in the proposed development may only apply for a permit or approval jointly with the property owner or authorized agent.

ATTACHED BUILDING. See definition of BUILDING, ATTACHED.

BEDROOM as defined by state regulation For zoning purposes **bedroom** means a room located within a dwelling that the residents use primarily as private sleeping quarters or that was designed for such use, and has at least one **egress** window, **one closet**, one interior door that allows the room to be closed off from the remainder of the dwelling, **and a floor area of at least 80 square feet**. **For septic capacity a one-bedroom house is a house with a septic system which is designed to accommodate two residents, or a grandfathered septic system that is assumed based on a history of occupancy to have adequate septic capacity for two residents.**

BERM means a constructed mound of earth in excess of 2 feet in height used for decorative, screening, buffering or similar purposes (see Section 3013).

BICYCLE RACK means a metal frame securely anchored to the ground that is designed to accommodate at least 2 bicycles, allows the bicycles to be locked to the frame with standard user supplied locks, and is sufficiently separated from vehicular use areas to protect parked bicycles from damage.

BUILDING means a structure with a roof that is supported by walls or columns, which is intended for the shelter, housing or enclosure of people, animals, vehicles, equipment, processes, goods or materials of any kind.

BUILDING, ATTACHED means a building that has at least part of a wall in common with another building or that is connected to another building by a roof.

BUILDING, DETACHED means a building that is freestanding and structurally separated from other buildings.

BUILDING, ENCLOSED means a building or a portion of a building that is roofed and has no open sides. It excludes open-air building elements like porches, stoops or arcades.

BUILDING, PRINCIPAL. See definition of STRUCTURE, PRINCIPAL.

BUILDING ENVELOPE means a specific area of a lot that is delineated on a subdivision plat and in accordance with the standards of Subsection 3307.C.

BUILDING SITE. See definition of SITE, BUILDING.

CAMPGROUND OR RESORT An establishment: (a) designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicles, (b) that provides overnight recreation camping or outdoor adventure retreats; or ~~(c) designed and operated as a recreation destination~~. It may provide short-term guest accommodations, and facilities and services such as camping units, cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities

CAMPING UNIT *A camping unit is a recreational vehicle, camper van, camping trailer, tent or tiny home.*

CARE HOME *Use of one or more structures to provide housing, board and to residents who need assistance with daily activities such as dressing, grooming, bathing, etc. or 24-hour skilled nursing, or similar treatment or care, and that operates under state license. Includes residential care, nursing or convalescent homes, hospice or respite care facilities, and residential treatment facilities*

CHARACTER OF THE AREA means an area's distinctive "personality" or sense of place, which is created through a combination of existing and/or planned (as described in the Londonderry Town Plan and the zoning district purpose statements) elements including, but not limited to:

- *The pattern, type, scale and intensity of land use;*
- *Traffic conditions, street design, streetscaping and walkability;*
- *The bulk, form, size, scale, placement and arrangement of buildings;*
- *Historic resources, landmarks, views and scenic resources;*
- *The type, size, arrangement, use and accessibility of open space; and*
- *Noise, light, odors, vibration and other impacts perceptible off-site.*

CLEARING means the removal of existing woody vegetation from land for purposes other than farming or forestry in accordance with state regulations.

COMMERCIAL SIGN. See definition of SIGN, COMMERCIAL.

COMMERCIAL OUTDOOR RECREATION

A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily outside an enclosed building. See Section .

CONVERSION means a change of use (see Section 1203).

CULTURAL FACILITY/ THEATER An establishment that presents live entertainment by actors, singers, dancers, musicians or other performing artists, or that shows movies or other recorded entertainment to an audience, primarily indoors..

CURB CUT. See definition of ACCESS.

DAMAGED STRUCTURE means a structure or portion of a structure that has suffered a fire, flood or similar natural disaster or unintended accident provided that the cost of repairing the damage is less than 50 percent of the market value of the structure prior to the damage occurring. This definition specifically excludes deterioration of a structure due to neglect or abandonment.

DECK means an unroofed platform, either freestanding or attached to a building, that is raised above ground level and supported by pillars or posts.

DEGREE OF NONCONFORMITY means the extent to which a structure or portion of a structure encroaches over a minimum setback or above a maximum height, exceeds a maximum footprint, or otherwise does not conform to a dimensional requirement of these regulations.

DE MINIMIS A legal term meaning too small to be meaningful or taken into consideration

DEMOLITION means the destruction and physical removal of a structure or portion of a structure from a lot.

DESTROYED STRUCTURE means a structure or portion of a structure that has suffered a fire, flood or similar natural disaster or unintended accident when the cost of repairing the damage equals or exceeds 50 percent of the market value of the structure prior to the damage occurring. This definition specifically excludes deterioration of a structure due to neglect or abandonment.

DETACHED BUILDING. See definition of BUILDING, DETACHED.

DEVELOPMENT. See definition of LAND DEVELOPMENT.

DEVELOPMENT APPROVAL means an approval granted for a site plan, conditional use, subdivision or other application under **Subchapter** Section 430 of these regulations.

DISABILITY as defined in state statute means a physical or mental impairment that limits one or more major life activities. This definition specifically excludes any person with a substance abuse disorder who constitutes a direct threat to property or the safety of others due to current alcohol or drug use.

DORMER A dormer is a roofed structure, often containing a window, that projects vertically beyond the plane of a pitched roof. Dormers that increase floor area require a zoning permit.

DRIVEWAY means a vehicular travel way that provides access to not more 3 lots or principal uses.

DRONE means a powered aerial vehicle that does not carry a human operator and is able to fly autonomously or to be piloted remotely in accordance with 20 V.S.A. Chapter 205. These devices are also referred to as Unmanned Aircraft Systems (UAS) by the FAA.

DWELLING UNIT means a structure or part of a structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation and meets the minimum requirements of Section 3010.

DWELLING UNIT, ACCESSORY means a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or within an accessory structure on the same lot. See Section 3204.

EDUCATIONAL INSTITUTION

A state-certified public or private establishment that provides educational services.

ELECTRONIC MESSAGE SIGN. See definition of SIGN, ELECTRONIC MESSAGE.

EMERGENCY SHELTER a place for people to live temporarily when they cannot live in their previous residence, Due to natural or man-made disasters.

ENCLOSED BUILDING. See definition of BUILDING, ENCLOSED.

ENLARGEMENT means any increase in the footprint or height of a structure.

EQUESTRIAN FACILITY

A commercial establishment used to house, train, care for, and/or ride horses.

ESSENTIAL SERVICES means the infrastructure used to provide a single lot or customer with a utility service such as electricity, gas, telephone, cable, water or sewer. This definition specifically excludes facilities or infrastructure subject to a Certificate of Public Good (see Section 1102).

EXTRACTION/ QUARRYING / BULK STORAGE OF CONSTRUCTION AND LANDSCAPING MATERIALS

An establishment that dredges, quarries, mines, for crushed and broken stones, limestone, sand, gravel, clay, topsoil, BARK MULCH or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening. See Section .

FAÇADE means the front of a building or any of its sides facing a road or other public space.

FAMILY (single-family, two-family, multifamily) Any number of individuals living and cooking together as a single housekeeping unit, whether related to each other legally or not, not to include paying guests.”

FAMILY CHILDCARE HOME Accessory use of single-unit residential property for a small daycare business that operates under state license or registration.

FARM means one or more parcels of land devoted primarily to farming that meets the definitions and minimum thresholds established in the Vermont Agency of Agriculture's Required Agricultural Practices Rule (see Section 1103).

FARM STRUCTURE means a structure on a farm that is used for farming that meets the definitions and minimum thresholds established in the Vermont Agency of Agriculture's Required Agricultural Practices Rule (see Section 1103).

FENCE means a constructed barrier erected to enclose, screen or separate areas of land. This definition specifically excludes berms and barriers created entirely by vegetation.

FENCE, AGRICULTURAL means a fence located on a farm that is used to enclose livestock or crops for purposes of confinement or protection (see Section 1103).

FINISHED GRADE. See definition of GRADE, FINISHED.

FLAT ROOF means any roof with a slope of not more than 5% (or 0.6:12 pitch).

FLOOR AREA means the sum total horizontal area of all enclosed floors of a building. For rooms with sloped ceilings, the floor area of the room shall only include those areas that have a ceiling height of not less than 5 feet as measured from the exterior face of the exterior walls or the centerline of a common wall between attached buildings including any heated space in a basement, attic, mezzanine or attached garage or other accessory building with a floor to ceiling height of 7 feet or more.

FOOD OR BEVERAGE MANUFACTURING, CATERING

A state licensed establishment that produces food or beverage products that are typically sold to wholesalers or retailers or to be served at off-premise events. It may include a retail shop, restaurant or bar as an accessory use that primarily sells products produced on the premises.

FOOTPRINT means the area encompassed by a building's exterior walls at ground level.

FRANCHISE OR CORPORATE DESIGN means a standardized design that is trademarked or identified with a particular franchise or corporation and that is replicated in multiple locations with minimal variation.

FRANCHISE OR CORPORATE IDENTIFICATION ELEMENTS means the visual elements that are trademarked or identified with a particular franchise or corporation and that are used in various applications to identify or promote that franchise or corporation including, but not limited to, logos, wordmarks, symbols, graphics, images, color palettes, typefaces, or typographic treatments.

FRONT YARD. See definition of YARD, FRONT.

FRONTLINE means a line extending parallel from the exterior front wall of a building.

FUELING STATION/ CARWASH/ AUTO REPAIR A specialized establishment for selling gasoline or other vehicle fuels, or for washing, waxing, polishing and general cleaning and repair of vehicles. It may also include retail sales as an accessory use

FULLY SHEIELDED LIGHT FIXUTRE. See definition of LIGHT FIXTURE, FULLY SHIELDED.

GLARE means light entering the eye directly from a light source or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

GOVERNMENT FACILITY

A state- or town-owned or operated establishment that serves a public function and provides governmental services

GRADE, FINISHED means the completed, post-construction surface elevation of land disturbed by development.

GRADE, NATURAL means the original, pre-construction surface elevation of land prior to its being disturbed by development.

GREEN STORMWATER INFRASTRUCTURE *a way to manage stormwater runoff using natural processes like plants, soil, and stone*

GROUP HOME *Use of a single-unit residential property to provide housing to people with a handicap or disability that operates under state license or registration*

HARD SURFACE means soil that has been compacted and covered with a material such as concrete, asphalt, stone, brick, gravel, stone dust or wood that allows it to be used for vehicular or pedestrian access, parking, storage or similar purposes without resulting in soil erosion or muddiness.

HAZARDOUS MATERIAL means any substance or material that by reason of its form, quantity, toxic, caustic, corrosive, abrasive or otherwise injurious properties may pose a risk to health, safety or property including, but not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, compressed gasses, or any substance defined by the state or federal government as a hazardous material.

HAZARDOUS WASTE as defined in state statute means any waste or combination of wastes of a solid, liquid, contained gaseous or semi-solid form, including, but not limited to, those which are toxic, corrosive, ignitable, reactive, strong sensitizers or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state.

HEALTHCARE/DENTIST/OUTPATIENT SERVICES An establishment from which one or more licensed practitioners provide healthcare services to people primarily as outpatients

HEAVY VEHICLE OR EQUIPMENT means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more, or machinery such as excavators, loaders, bulldozers, backhoes, cranes or forklifts.

HISTORIC STRUCTURE means a structure listed, either individually or as a contributing structure within a historic district, in the National Register of Historic Places or the Vermont Register of Historic Places, or a structure that the State Historic Preservation Officer or the Vermont Advisory Council on Historic Preservation determines to be historically significant and eligible for such listing.

HOME BUSINESS Accessory use of single-unit residential property for a small business that may alter the residential character of the property

HOME OCCUPATION Accessory use of single-unit residential property for a small business that does not alter the residential character of the property.

HOUSEHOLD means one or more people who live together as a single housekeeping unit and share meals, expenses and common use of the property. The residents of a group home that meets the requirements of Section 1105 will be considered a household for the purposes of these regulations. A household may include not more than two boarders or roomers in accordance with Section 3203 for the purposes of these regulations.

IMPERVIOUS SURFACE means a surface composed of a material that impedes or prevents the natural infiltration of water into the soil including, but not limited to, exposed ledge, constructed ponds and pools, buildings and other structures, parking lots, streets, driveways, sidewalks, walkways, patios and similar hard-surfaced areas whether constructed of concrete, asphalt, stone, brick, gravel, compacted earth or similar materials. This definition excludes hard surfaces and materials used as a green stormwater infrastructure practice that are specifically designed, constructed and maintained to be pervious (see Section 3024).

INTERESTED PERSON as defined in state statute means:

*The applicant (this includes an agent authorized to act on behalf of the applicant);
The Town of Londonderry or any adjoining municipality;*

A person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on his or her property, and who alleges that a decision made under this ordinance is not or will not be in accord with the Londonderry Town Plan or these regulations.

*Any 10 people, who may be any combination of Londonderry voters or landowners, who allege that a decision or act made under this ordinance is not or will not be in accord with the Londonderry Town Plan or these regulations by a signed petition.
The petition must designate one person to serve as the group's representative.*

*Any department and administrative subdivision of the state owning property or any interest in property in Londonderry; or
The Vermont Agency of Commerce and Community Development.*

INTERNAL ILLUMINATED SIGN. See definition of SIGN, INTERNAL ILLUMINATED.

JUNK as defined in state statute means 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 motor vehicle parts.

JUNK MOTOR VEHICLE as defined in state statute means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or motor vehicle parts, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days.

LAND DEVELOPMENT as defined in state statute means:

- *The division of a parcel into two or more parcels;*
- *The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure;*

- *Mining, excavating or filling; or*
- *Any change in, or extension of, the use of land or a structure.*

LANDING AREA means an area of land designed and maintained for the landing and take-off of aircraft that the State of Vermont regulates as a designated restricted landing area under 5 V.S.A. Chapter 9.

LIDAR is a technology used to create high-resolution models of ground elevation .

LIGHT FIXTURE means a complete lighting assembly, including one or more lamps (bulbs), housing, reflectors, lenses and/or shields, that functions as a single unit and is connected to a single support assembly (ex. pole, standard or mounting bracket) used for illumination, decoration, security and/or advertising.

LIGHT FIXTURE, FULLY SHEILED means a light fixture constructed, installed and used in such a manner that all light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downward). Spot or flood lamps are fully shielded if they are aimed straight down.

LIGHT FIXTURE, PARTIALLY SHEILED means a light fixture constructed, installed and used in such a manner that most of the light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downwards). Light is emitted at or above the horizontal direction (outwards or upwards) only from decorative elements or through strongly colored or diffusing materials. Spot or flood lamps are partially shielded if they are aimed no higher than 45° above straight down.

LODGING FACILITY/ HOTEL/MOTEL/INN Use of one or more structures to provide short-term guest accommodations. It may also include accessory uses such as food services, recreational services, convention hosting, laundry services, etc.

LOT means an area of land with identifiable boundaries and dimensions that is formally described and recorded in the town land records and that can be lawfully owned and conveyed separately from any other land. Land divided by town or state roads or road rights-of-way, the West River, Utley Brook, Flood Brook, Winhall River or other surface waters with a drainage area of greater than 10 square miles will be considered separate lots for the purposes of these regulations.

LUMINOUS TUBE LIGHT means a light fixture:

Created by or containing gas discharge tubes that emit light or glow when electric voltage is applied;

Replicates the appearance of gas discharge tubes using LED tubes or other technology.

MAINTAINED ROAD. See definition of ROAD, MAINTAINED.

MAJOR RENOVATION means any structural alteration to the foundation, roof, floor, exterior walls, or internal load-bearing walls of a building.

MANUFACTURED HOME means a building that is transportable in one or more sections, is built on a permanent chassis, is designed to be used as a dwelling with or without a permanent foundation when attached to the required utilities, and conforms to the National Manufactured Home Construction and Safety Standards. This definition specifically excludes recreational vehicles.

MANUFACTURING INDOORS the indoor creation or production of goods with the help of equipment, labor, machines, tools, and chemical or biological processing or formulation.

MANUFACTURING OUTDOORS the outdoor creation or production of goods with the help of equipment, labor, machines, tools, and chemical or biological processing or formulation.

MATERIAL CHANGE means a change in the planned use or development of land or a structure that may have changed the decision made or any conditions placed on the permit if it had been included in the plans as approved.

MINI-STORAGE BUILDING means a single-story building divided into individual, self-contained units each of which is accessed solely from outside the building and which are intended to be leased to individuals, organizations or businesses for the self-storage of personal property.

MIXED-USE BUILDING means a building that includes at least one dwelling unit and one principal nonresidential use.

MIXED-USE DEVELOPMENT means a single development site that includes at least one principal residential building and one principal nonresidential building, or one or more mixed-use buildings. The plan for the site must be unified and coordinated with the uses functionally integrated through shared pedestrian and vehicular access, parking and similar means.

MOBILE-HOME/ TINY HOME PARKS Vermont law defines a mobile home park as a piece of land that has more than two mobile homes or mobile home lots, or contiguous lots owned by one owner with a total of two or more mobile homes or lots. Londonderry zoning bylaws treat Tiny Homes that are RBES certified as Mobile Homes

MOTOR VEHICLE means any self-propelled conveyance used to transport people, animals, goods or materials.

MULTI USE BUILDING *A building in a commercial district that houses more than one enterprise.*

MULTI-USE PUD a property in a commercial district with more than one enterprise housed in to or more structures.

MUSEUM OR LIBRARY An establishment that preserves and exhibits objects, sites and natural wonders of historical, cultural or educational value or offers physical fitness, sports, games and other leisure-time activities primarily from within an enclosed structure.

NATURAL GRADE. See definition of GRADE, NATURAL.

NOISE means an unwanted sound that may disturb or annoy the average person.

NONCONFORMITY means a lot, structure or use that lawfully existed prior to the adoption or revision of these regulations, but now does not conform to one or more standards of these regulations (see **Subchapter Section 130**).

NORMAL MAINTENANCE AND REPAIR means the regular upkeep of property to avoid deterioration, fix damage caused by normal wear and tear, and/or replace worn out components in kind, which does not result in a change in the use or dimension of any structure, or in a structural alteration.

OPEN SPACE means land not occupied by structures, including but not limited to buildings, roads, driveways and parking areas, and not actively managed for farming or forestry.

OUTDOOR DISPLAY means the placement of merchandise, goods, materials, vehicles, or equipment for sale, rental, lease or advertising in an unenclosed area.

OUTDOOR PERFORMANCES amplified music or speech at an assembly of persons.:

OUTDOOR RECREATION, ACTIVE means a recreational activity that:

- *Requires specialized facilities, fields, courts, ranges and/or related structures; or*
- *Involves use of motorized vehicles or firearms.*

OUTDOOR RECREATION, PASSIVE means a recreational activity that:

- *Can be conducted in a minimally developed open space; and*
- *Does not have undue adverse environmental or off-site impacts.*

OUTDOOR STORAGE means the keeping of any merchandise, goods, materials, vehicles, equipment, junk or waste in an unenclosed area and in the same place for more than 24 hours.

PARCEL. See definition of LOT.

PARTIALLY SHIELDED LIGHT FIXTURE. See definition of LIGHT FIXTURE, PARTIALLY SHIELDED.

PASSIVE OUTDOOR RECREATION. See definition of OUTDOOR RECREATION, PASSIVE.

PATIO means a level, hard-surfaced area not covered by a permanent roof and not more than 6 inches above or below grade intended to be used as an outdoor living or dining area or public gathering space.

PAVE means to cover the ground with asphalt, concrete, stones, gravel, stone dust, brick, tile, wood, or other impervious materials used to cover the ground in order to make a firm, level surface suitable for vehicular or pedestrian use.

PERMANENT FOUNDATION means a slab, walls and/or footings constructed of concrete, masonry or similar durable, load-bearing materials that extend below the frost line and that form a secure, stable base to which a structure may be attached.

PERSONAL SERVICE An establishment that provides services on or closely related to the physical person including, but not limited to, laundry, tailoring, shoe repair, hair salon, nail salon, tanning salon, spa, massage parlor or tattoo parlor. It may include sales of related personal products as an accessory use. This definition specifically excludes services provided by licensed medical or veterinary practitioners.

PRIMITIVE CAMP Use of a structure that does not meet the minimum requirements of a dwelling unit in Section 3010 for habitation by people who are vacationing or recreating and who have a principal residence elsewhere. See Section 3205.

PRINCIPAL BUILDING. See definition of STRUCTURE, PRINCIPAL.

PRINCIPAL ENTRANCE means an entry that is intended to provide the general public with direct access to one or more principal uses within a building. This definition does not include entrances intended to access dwelling units, service areas or other portions of a building not open to the general public.

PRINCIPAL STRUCTURE. See definition of STRUCTURE, PRINCIPAL.

PRINCIPAL USE. See definition of USE, PRINCIPAL.

PRIVATE ROAD. See definition of ROAD, PRIVATE.

PUBLIC ART means a fountain, monument, sculpture, painting, mural or similar art object that is:

- *Visible from public vantage points;*
- *Intended for the enjoyment of the general public; and*
- *Not designed or located to identify or draw attention to a business and the type of products sold, manufactured or assembled, or the type of services or entertainment offered or available on the premises.*

PUBLIC OUTDOOR RECREATION, PARK OR NATURE PRESERVE

A non-commercial establishment that offers sports, games and other leisure-time activities to the general public primarily outside an enclosed structure, or land that is maintained in a primarily unimproved natural state for passive recreation and/or conservation purposes.

PUBLIC ROAD. See definition of ROAD, PUBLIC.

QUALIFYING PRODUCT as defined in state statute means a product that is wholly:

- *An agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;*
- **Petting zoos, sleigh rides**
- *Livestock or cultured fish or a product thereof;*
- *A product of poultry, bees, an orchard, or fiber crops;*
- *A commodity otherwise grown or raised on a farm; or*
- *A product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.*

REASONABLE USE means a use that is allowed within the zoning district, provides a benefit to the owner, does not prevent or interfere with the reasonable use of other properties in the area, and does not result in adverse environmental or off-site impacts. Reasonable use does not mean the highest, best or most profitable use.

REAR YARD. See definition of YARD, REAR.

RECONSTRUCT means to rebuild a structure that was damaged, destroyed or demolished in accordance with these regulations.

RECREATIONAL VEHICLE means a registered motor vehicle or trailer designed and used for recreational travel and camping that can be legally driven or towed without a commercial driver's license or a special permit for an oversize or overweight vehicle, and that is maintained in a condition that allows it to be legally and readily driven or towed off the site. This definition includes but is not limited to motor homes, converted buses, camper vans, truck campers, fifth wheels, pop-up campers and travel trailers.

RELIGIOUS INSTITUTION

An establishment that serves as a place of worship or congregation for a religious purpose. It may offer educational services, charitable services or other uses associated with religious exercise as an accessory use.

RETAIL BUSINESS A business that sells products or services directly to consumers.

RETAIL BUSINESS SINGLE a property with one retail business.

RETAINING WALL means a wall used to make a grade change by retaining at least 2 feet of soil and preventing the soil from slumping, sliding or falling. This definition does not include any wall used to support or provide a foundation for a building or other structure (see Section 3013).

REDEVELOPMENT means new development, including but not limited to new construction and additions to, or reconstruction of, existing structures, on a previously developed lot.

RESTAURANT, BAR, INDOOR EVENT FACILITY

An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption. A restaurant will be classified as take out if it has drive through service. A restaurant without drive through service that has both eat in and take out service will be classified as a sit down restaurant provided that the dining area (exclusive of any outdoor dining) comprises at least 40% of the total floor area of the restaurant. This definition includes a retail bakery that sells at least 50% of its products on the premises and mobile food service from motorized vehicles or non-motorized carts that are parked or located outside the road right-of-way. This definition specifically excludes mobile food and catering service.

RIPARIAN BUFFER is a protected area adjacent to rivers or streams.

ROAD means a vehicular travel way that provides the principal means of access to more than three lots or principal buildings.

ROAD, MAINTAINED means a road that is kept open and maintained so as to be safe and suitable for use by a passenger vehicle on a year-round basis.

ROAD, PRIVATE means a road that is not owned by the state or town.

ROAD, PUBLIC means a road that is owned by the state or town.

ROAD STUB means a segment of road that is designed to be extended when adjacent property is developed.

ROOMING AND BOARDING HOUSE Use of a structure or part of a structure to provide accommodations that will serve as the boarder's principal residence for a period of not less than 31 days, and that may include meals, housekeeping and/or laundry services.

SALES LOT CONTRACTOR STORAGE (Garden Center, Lumber Yard) An establishment that stores contractor's equipment, or sells lumber, plants, equipment, machinery, prefabricated buildings primarily from an open lot. It may also provide installation, repair or maintenance services as an accessory use.

SHORT-TERM RENTAL (STR) A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

SIDE YARD. See definition of YARD, SIDE.

SIGN means any device (including but not limited to letters, words, numerals, figures, emblems, symbols, pictures, flags, streamers, balloons, lights, or any part or combination) used for visual communication intended to attract the attention of the public and visible from off the premises. This definition specifically excludes merchandise normally displayed in a storefront window, merchandise displayed or stored outside as approved under these regulations, and public art.

SIGN, ABANDONED means:

- *A commercial sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for at least 90 days;*
- *A non-commercial sign whose message pertains to a time, event or purpose that has elapsed or expired in the preceding 30 days; or*
- *A sign that has not been maintained in accordance with these regulations.*

SIGN, COMMERCIAL means a sign that functions as commercial speech in that it:

- *Is meant to be an advertisement visible from public vantage points;*
- *References a particular product, service, company or business location; and*
- *Is displayed with an economic motivation.*

SIGN, ELECTRONIC MESSAGE means a sign with a fixed or changing message or image shown on an electronic display or video screen and whose message may be changed by electronic means.

SIGN, INTERNALLY ILLUMINATED means a sign with an interior light source that shines through a transparent or translucent surface material.

SIGNIFICANT WILDLIFE HABITAT means deer wintering areas, wetlands, habitat for rare or endangered species, and black bear habitat as mapped by the Vermont Agency of Natural Resources.

SINGLE RETAIL / OFFICE/ BANK/ BOTTLE REDEMPTION/ REPAIR SERVICE (NON AUTOMOTIVE) An establishment that sells goods or services to the general public for personal or household consumption. It may also provide installation, repair or maintenance services as an accessory use. Includes state-licensed cannabis retailers and wholesalers.

SINGLE-UNIT DWELLING Use of a structure for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

SINGLE-UNIT TRUCK. See definition of TRUCK, SINGLE-UNIT.

SITE, BUILDING means a lot or a portion of a lot that is, or is proposed to be, developed with one or more structures or uses.

SMART GROWTH PRINCIPLES as defined in state statute means growth that:

- *Maintains the historic development pattern of compact village and urban centers separated by rural countryside;*
- *Develops compact mixed use centers at a scale appropriate for the community and*

the region;

- *Enables choice in modes of transportation;*
- *Protects important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts;*
- *Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries;*
- *Balances growth with the availability of economic and efficient public utilities and services;*
- *Supports a diversity of viable businesses in downtowns and villages;*
- *Provides for housing that meets the needs of a diversity of social and income groups in each community; and*
- *Reflects a settlement pattern that, at full build out, is not characterized by:*
 - *Scattered development located outside compact urban and village centers that is excessively land consumptive;*
 - *Development that limits transportation options, especially for pedestrians;*
 - *The fragmentation of farmland and forestland;*
 - *Development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers; and*
 - *Linear development along well traveled roads and highways that lacks depth, as measured from the highway.*

STREAM See definition of SURFACE WATER.

STREET See definition of ROAD.

STRIP DEVELOPMENT as defined in statute means linear commercial development along a road that includes three or more of the following characteristics:

- *Broad road frontage;*
- *Predominance of single story buildings;*
- *Limited reliance on shared access;*
- *Lack of connection to any existing settlement except by road;*
- *Lack of connection to surrounding land uses except by road;*
- *Lack of coordination with surrounding land uses; and*
- *Limited accessibility for pedestrians.*

STRUCTURE as defined in state statute means assembly of materials for occupancy or use, including but not limited to, a building, sign, wall, or fence.

STRUCTURE, ACCESSORY means a structure that is clearly incidental and subordinate to the principal structure on the lot.

STRUCTURE, PRINCIPAL means the main or predominate structure associated with the principal use on the lot.

STORAGE An establishment that (a) stores, but does not sell, goods and may provide a range of services related to the distribution of goods; or (b) provides individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods (see Section). This definition specifically excludes any use specifically defined in this section.

STRUCTURE, TEMPORARY means a structure that ~~is not attached to a permanent foundation and that can be easily relocated after which there will be no evidence remaining of the structure. See Section 3019.~~ will only be in place for one year, or a structure that will be at a construction site only until the construction is substantially complete.

Studio, (Art, Video or Audio Recording) An establishment used to produce, display and/or sell works of art.

SUBSTANTIALLY COMPLETE means that construction activities have been completed in accordance with the approved plans to a point where the development may be fully and freely used for its intended purpose.

SURFACE WATER means a river, stream (whether perennial or intermittent), lake or pond mapped by the Vermont Agency of Natural Resources.

SURVEY means a map prepared and certified by a Vermont licensed land surveyor that locates or establishes property lines or boundaries, or that demarcates other legal rights or interests in any tract of land, road, right-of-way or easement.

TANK FARM OR FUEL STORAGE AND DISTRIBUTION SERVICES

An establishment with one or more tanks that typically store fuels, oils and similar liquid products for sale or distribution. This definition specifically excludes retail sale and refilling of fuel tanks that are not more than 50 pounds in size when carried out as an accessory use. See Section .

TEMPORARY means a use or structure that will be occurring or located on a lot for a limited and fixed period of time after which there will be no evidence remaining of the use or structure.

TEMPORARY STRUCTURE. See definition of STRUCTURE, TEMPORARY.

TOP OF BANK as defined by state regulation means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys, it is generally the point where the stream is able to overflow the banks and enter the floodplain. For streams in steep and narrow valleys, it is generally the same as the top of slope.

TRAILER means a conveyance used to transport people, animals, goods or materials that is not self-propelled and that is designed to be pulled or moved by a motor vehicle.

Transportation services An establishment that provides: (a) transportation of people including (b) transportation of cargo using trucks, tractor trailers or rail; or (c) services, maintenance, repair or fuel primarily for heavy vehicles, including buses. This definition specifically excludes air transportation.

TRUCK, SINGLE-UNIT means a commercial motor vehicle on a single frame.

TRUCK, TRAILER means a commercial vehicle consisting of two or more units, one of which is the motor vehicle and the remainder of which are trailers.

TWO-UNIT DWELLING Use of a structure for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking, and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.

USE means the purpose or activity that a lot or structure (or a portion of a lot or structure) is intended, designed or arranged to house, accommodate, support or facilitate.

USE, ACCESSORY means a use of a lot or structure (or a portion of a lot or structure) that is clearly incidental and subordinate to the principal use.

USE, PRINCIPAL means the main or predominate use of a lot or structure (or a portion of a lot or structure). The principal use of a lot with a single- or two-unit dwelling will be considered residential.

UTILITY FACILITY means sites, structures and infrastructure used to produce, transmit or distribute a utility service such as electricity, gas, telephone, cable, water or sewer, which directly or indirectly serves the public. This definition specifically excludes essential services.

VETERINARY, PET OR ANIMAL SERVICE

An establishment: (a) where licensed practitioners of veterinary medicine, dentistry or surgery treat animals; (b) that provides animal and pet care services such as boarding, grooming, sitting and training; or (c) that breeds, sells or manages adoption of pets. It may include grooming, boarding or other pet services as an accessory use. It may include sales of pet food, medicines or supplies as an accessory use

Waste services

An establishment that: (a) collects or hauls nonhazardous solid waste or recyclable materials generated within a local area; (b) operates as a nonhazardous solid waste transfer station; (c) identifies, sorts, treats, packages, or labels wastes for the purposes of transport; (d) pumps septic tanks and cesspools; (e) rents or services portable toilets; (f) provides other septic waste management services; (g) collects, separates and/or recovers recyclable materials; (h) prepares materials for efficient shipment by means such as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning; or (i) transforms organic waste into a stable, soil-like product in a controlled environment under aerobic conditions. It may include retail sales of recovered materials as an accessory use. This definition specifically excludes landfills, municipal wastewater treatment facilities and related essential services, and composting activities that are limited to organic waste produced on the premises.

WETLAND as defined in state statute means an area that is inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds.

WETLAND SETBACK a protected area next to a wetland.

WHOLESALE TRADE

An establishment that sells or arranges the purchase of goods primarily to other businesses that is set up as a warehouse or office with little to no display of merchandise and where customers do not have direct access to the primary merchandise being sold.

YARD means an at-grade, pervious open space on a developed lot that is unoccupied by any structure except for encroachments specifically authorized under these regulations.

YARD, FRONT means the yard that is located between the street and the frontline of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have two front yards.

YARD, REAR means the yard that is located between the rear lot line and the nearest line of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have no rear yard.

YARD, SIDE means a yard that is located between the side lot line and the nearest line of the principal building on the lot and extends between the front and rear yards. A corner lot will be considered to have two side yards.