Village of Ludlow, Vermont

Zoning and Flood Hazard Regulations (Amended)

Adopted January 3, 2006
Amended September 5, 2006
Amended February 10, 2015
Amended August 4, 2015

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These Zoning Regulations were updated in 2014 by the Ludlow Planning Commission with assistance from the Southern Windsor County Regional Planning Commission, Ascutney, VT

Financial support for undertaking this revision was provided, in part, by a grant from the Vermont Agency of Commerce and Community Development.

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ARTICLE 1 - ENACTMENT, PURPOSE AND APPLICATION

SECTION 110 - ENACTMENT

In accordance with Title 24, Chapter117, Subchapter 6 of the Vermont Statutes Annotated the Vermont Planning and Development Act, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for the Village of Ludlow, Vermont, which are set forth in the text and map that constitute these Regulations. These Regulations shall be known and cited as the "Village of Ludlow Zoning and Flood Hazard Regulations".

SECTION 120 - PURPOSE

It is the intent of these regulations to:

1. Provide for and promote the orderly development of Ludlow;
2. Implement the goals and objectives of the Ludlow Municipal Development Plan;
3. Promote the public health, safety, and general welfare of the community; and
4. Advance the purpose and goals set forth in §4302 of the “the Act”.

SECTION 130 - EFFECTIVE DATE

These Regulations shall take effect in accordance with the procedures contained in Section 4442 of the Act.

SECTION 140 - INTERPRETATION

In their interpretation and application, the provisions of the Regulations shall be held to be minimum requirements adopted for the promotion of public health, safety, comfort convenience, and general welfare. Except where these Regulations specifically provide to the contrary, it is not intended by these Regulations to repeal, annul, or in any way impair any regulations or permits previously adopted or issued; provided, however, that where these Regulations impose a greater restriction upon the use of land or a structure, the provisions of these regulations shall control. These Regulations supersede the Village of Ludlow Zoning and Flood Hazard Regulations, amended September 5th, 2006.

SECTION 150 - AMENDMENTS

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

SECTION 160 - SEPARABILITY

The invalidity of any Article or Section of the Regulations shall not invalidate any other Article or Section thereof.

SECTION 170 - APPLICATION OF REGULATIONS

Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with these Regulations for the district in which it is located. Any use not permitted by these Regulations shall be deemed prohibited.

ARTICLE 2 - ADMINISTRATION AND ENFORCEMENT

SECTION 210 - ADMINISTRATIVE OFFICER

The Administrative Officer is hereby appointed to administer these Regulations, as provided for in section 4448 (a) of the Act. Said Officer shall literally enforce the provisions of these Regulations and in so doing shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations. The Administrative Officer (AO) is also referred to as the Zoning Administrator (ZA).

The Zoning Administrator has the authority to administratively approve applications for permitted uses, signs, minor alterations to conditional uses, lot line adjustments (under Subdivision Regulations), and any other activities that do not require Development Review Board (DRB) review under these regulations. Any decision of the Zoning Administrator may be appealed to the DRB in accordance with Section 223.

In addition, the Zoning Administrator shall coordinate the Village's development review program. If other municipal permits or approvals are required, the Zoning Administrator shall provide the applicant with necessary forms. The Zoning Administrator shall also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain all relevant state permits.

An Acting Administrative Officer may be appointed as provided in Section 4448 (b) of the Act and shall have the same responsibility as the Administrative Officer in his or her absence.

SECTION 220 - ZONING PERMIT

No land development may commence, nor shall any new or altered structure be used, extended in any way or be occupied, unless a Zoning Permit shall have been duly issued by the Administrative Officer, with the following exceptions for single-family dwellings, unless the building is located within special flood hazard areas (in which case, a permit shall be required under Article 6):

1. A Permit shall not be required for the placement or construction of a tool shed, pump house, doghouse, or other such accessory structures, provided that the floor space does not exceed one hundred forty-four (144) square feet and 15 feet in height to the top of the ridge, and provided that such structure is in compliance with required setbacks. Construction of an exempt structure under this section that does not meet setback requirements constitutes a violation. A permit is required for all structures within the special flood hazard areas.

2. A Permit shall not be required for the placement of a satellite dish of 2 feet or less in diameter.

3. A Permit shall not be required for any interior structural alteration that does not change the use of the structure, or the number of bedrooms.

4. A Permit shall not be required for any exterior renovation or repair of a structure that does not change the use therein or increases the exterior dimensions of the structure.

5. A permit shall not be required for an above ground swimming pool that does not exceed thirty-six (36) inches in depth without a deck.

6. A permit shall not be required for minor grading and excavation associated with road and driveway maintenance (including culvert replacement and re-surfacing) and yard improvements associated with accessory uses to existing principle uses (e.g. establishing garden and landscape areas). [However, an access permit issued by the Highway Foreman is required for construction and maintenance activities within Town or Village road rights-of-way.]

SECTION 221 - APPLICATIONS

All applications for a Zoning Permit, along with the required fees shall be submitted to the Administrative Officer. The application shall be accompanied by:

For single family residence:

1. Two (2) copies of a plot plan showing the dimensions of the lot to be built on, and the location of the building and any accessory structures, showing setbacks, to be erected.

2. An elevation drawing showing the elevations of the buildings.

3. Proof that, when required, either sewer connections have been approved, or a State septic permit has been issued and that all appropriate fees have been paid.

4. Any other prerequisite approvals as required by these regulations and any other such information as may be necessary to determine and provide for the enforcement of these Regulations, including, but not limited to, the requirements set forth by “REFERRAL TO STATE AGENCIES”, and Article 6 “FLOOD PLAIN MANAGEMENT ORDINANCE” of these Regulations.

5. Locations, identifications, and any specific directions shall be the responsibility of the Applicant.

For all others:

1. All the items listed above for single-family residence.

2. Any other prerequisite approvals as required by these Regulations and any other such information as may be necessary to determine and provide for the enforcement of these Regulations, including, but not limited to, the requirements set forth in Section 260, "CONDITIONAL USES".

SECTION 221.5 – LIMITATIONS AND EXEMPTIONS

A. In accordance with §4413(a) of the Act, the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

   1. State- or community-owned and operated institutions and facilities;

   2. Public and private schools and other educational institutions certified by the state department of education;

   3. Churches and other places of worship, convents, and parish houses;

   4. Public and private hospitals;

   5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159;

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

B. In accordance with the Act [§4446], no zoning permit shall be required for the following, which have been determined by the Village to impose no impact, or merely a de minimis impact on the surrounding land area and overall pattern of land development, or which are by law otherwise exempted from municipal review :

   1. Any structure for which construction began prior to the effective date of these regulations, providing such construction complied with all applicable local regulations in effect when construction commenced.

   2. Accepted agricultural practices (AAPs), including silvicultural practices and farm structures, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however written notification, including a sketch plan of the structure showing setback distances from road rights-of-way, property lines, and surface waters, shall be submitted to the Administrative Officer prior to any construction, as required under the AAPs (see Section 510.3).

   3. Public utility power generation and transmission facilities regulated by the Vermont Public Service Board under 30 V.S.A. §248.

4. Hunting, fishing and trapping activities as defined by the state [24 V.S.A. §2295].

5. Ancillary telecommunication facility improvements [as defined in 30 V.S.A. §248a(b)] that do not exceed a footprint of 300 square feet and a height of 10 feet in accordance with §4413(h)(1)(A) of the Act.

6. In accordance with §4413(h)(1)(B) of the Act, communications line improvements including:

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

    b. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

7. In accordance with §4412(1)(G), a group home (exempt) to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered by right to constitute a permitted single-family residential use of property. No permit is required for such a group home to be established in a legally existing single-family house. However, written notification shall be submitted to the Administrative Officer prior to establishing such a group home. The Administrative Officer shall inform abutters of such written notifications, and shall file written notifications in the Ludlow Land Records.

SECTION 222 - ISSUANCE OF PERMIT

1. The Administrative Officer shall issue a permit only upon finding that the proposed application conforms to these Regulations.

2. If application for a permit is denied, the Administrative officer shall so notify the Applicant, in writing, stating the reasons therefore.

3. If the Administrative Officer fails to act with regard to a complete application, whether by issuing a decision or making a referral to the DRB for a permit within thirty (30) calendar days, a permit shall be deemed issued on the thirty first (31st) day.

4. Within three (3) working days following the issuance of a zoning permit the Administrative Officer shall:

    a. Deliver a copy of the permit to the Listers.

    b. Post a copy of the permit in at least one public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit.

5. The Administrative Officer shall file a copy of a permit issued for land development in the Flood Hazard Area with the Secretary of the Agency of Environmental Conservation, and the Regional Planning Commission, within ten (10) days of issuance.

6. The Administrative Officer shall cause a copy of the Zoning Permit issued for land development to be recorded in the Village of Ludlow Land Records within thirty (30) days of issuance, with the applicant responsible for paying the recording fees.

7. The applicant shall be required to post a notice of permit within view of the public right-of-way most nearly adjacent to the subject property until the time of appeal in section 4465 has passed.

SECTION 223- APPEALS

(1) Appeals of Zoning Administrator Decisions

A. Any interested person, as defined in Article 7, may appeal a decision or act of the Zoning Administrator within fifteen (15) days of the date of the decision or act by filing a notice of appeal with the Secretary of the DRB and by filing a copy of the notice with the Zoning Administrator.

B. The DRB shall hold a public hearing on a notice of appeal within sixty (60) days of its filing. The DRB shall give public notice of the hearing under Section 241, and mail a copy of the hearing notice to the appellant not less than fifteen (15) days prior to the hearing date.

C. The DRB may reject an appeal or request for reconsideration without hearing, and render a decision, which shall include findings of fact, within ten (10) days of the filing of a notice of appeal, if the DRB determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant.

D. All appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in all DRB hearings. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be recessed by the DRB, provided that the date and place of the reconvened hearing shall be announced at the hearing.

E. A decision on appeal shall be rendered within forty-five (45) days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the forty-five (45) day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality.

Failure of the DRB to issue a decision within this forty-five (45) day period shall be deemed approval and shall be effective on the 46th day.

(2) Notice of Appeal

A notice of appeal filed under this section shall be in writing and include the following information:

A. The name and address of the appellant;

B. A brief description of the property with respect to which the appeal is taken;

C. A reference to applicable provisions of these regulations;

D. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and

E. The alleged grounds why such relief is believed proper under the circumstances.

(3) Appeals of DRB Decisions

An interested person who has participated in a regulatory proceeding of the DRB may appeal a decision rendered by the DRB within thirty (30) days of such decision, to the VT Superior Court Environmental Division. Appeals to Environmental Division shall also meet the following requirements:

A. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

B. For all proceedings of the DRB that are on the record, appeals to the Environmental Division shall be taken on the record in accordance with the Rules of Civil Procedure.

C. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division and by mailing a copy to the Municipal Clerk, or the Zoning Administrator, if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the Court to intervene.

SECTION 224 - EXPIRATION OF PERMIT

If land development has not started within one year from the date of the issuance of a Zoning Permit, the zoning permit shall expire on the anniversary date of its issuance. If a zoning permit has expired prior to the start of land development, then a new zoning permit must be applied for

and granted before development may commence. For there to be a "start of land development" a substantial amount of work on the project must have been accomplished.

Except for the construction of a single family residence or other use that is a "permitted use" within any zoning district, if the zoning permit is approved, all activities authorized by its issuance shall be completed within two years from its date of issuance or the zoning permit shall become null and void.

SECTION 225 - EFFECTIVE DATE

No Zoning Permit shall take effect until the 15 day period for appeal to the DRB has passed, or in the event that a notice of appeal is filed properly, such Permit shall not take effect until and unless a positive decision for the applicant is issued by the Development Review Board.

Zoning Permits shall be issued by the Administrative Officer after a decision by the Development Review Board and shall become effective immediately.

SECTION 226- MORATORIUM ON PERMITS APPLIED FOR DURING BYLAW AMENDMENT PERIOD

If a public notice for a first public hearing pursuant to subsection 4442(a) of this title is issued under this chapter by the Board of Trustees of the Village of Ludlow with respect to the adoption or amendment of a bylaw submitted by the Planning Commission, the administrative officer, for a period of 150 days following such notice, shall review any new application filed after the date of the notice, under the proposed bylaw or amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed bylaw or amendment is rejected, then the permit shall be revised under existing bylaws. An application that has been denied under a proposed bylaw or amendment, that has been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost, under the existing bylaws, upon request of the applicant. Any determination by the administrative officer under this section shall be subject to appeal as provided in section 4465 of this title. (See V.S.A. 4449(d))

SECTION 227 - CERTIFICATES OF OCCUPANCY

(1) A Zoning Certificate of Occupancy (CO) issued by the Zoning Administrator shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued except for: home occupations and the exceptions for single-family dwellings listed under Section 220. A Certificate of Occupancy shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Zoning Administrator determines that the project has been completed in conformance with all such approvals, conditions and permits. In accordance with §4449 of the Act, the Zoning Administrator shall not issue a CO until after the applicant provides a certificate as required by 21 V.S.A. §266 (Residential Building Energy Standards) or §268 (Commercial Building Energy Standards).

(2) The Zoning Administrator shall inspect the premises to ensure that all work has been completed in conformance with permit conditions. If the Zoning Administrator fails to either grant or deny the CO within thirty (30) days the certificate shall be deemed issued.

(3) The Zoning Administrator may issue a temporary Certificate of Occupancy if a building is substantially complete, but not all permit conditions have been met. For example, a temporary CO may be issued if the Zoning Administrator determines that the building is substantially complete but the required landscaping cannot be completed due to the season. The Zoning Administrator shall establish reasonable timeframes to complete the required work. The temporary CO shall expire when the required work is to be completed, but never more than six (6) months from the date of issue.

(4) The issuance of a Certificate of Occupancy does not waive the Village's authority to take future enforcement actions on the completed project.

SECTION 228 - RECORDS

The Administrative Officer shall maintain a complete record of all the applications, reviews, decisions, appeals and variances made under these Regulations and any administrative actions pursuant thereto.

All Zoning Permits and Certificates of Occupancy issued by the Administrative Officer, and all variances, and conditional use approvals issued by the Development Review Board, shall be recorded in the Village of Ludlow Land Records, with the applicant responsible for paying the recording fees.

SECTION 240 – VIOLATIONS AND ENFORCEMENT

(1) Violations

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with §§4451 and 4452 of "the Act". Any person who violates these Regulations shall be fined not more than two hundred dollars ($200.00) for each offense. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Village of Ludlow any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

(2) Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven (7) days; and that the alleged offender will not be entitled to an additional warning notice for a

violation occurring after the seven (7) days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven (7) day notice period and within the next succeeding twelve (12) months.

(3) Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within fifteen (15) years from the date the alleged violation first occurred, and not thereafter per §4454 of the Act. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit approved after July 1, 1998 unless the permit or a notice of the permit has been recorded in the land records of the municipality.

SECTION 241 - PUBLIC HEARINGS

(1) Public Notice

A. A warned public hearing shall be required for conditional use review, site plan review, appeals of decisions of the administrative officer, and variances. Any public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the public hearing by all of the following:

   1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.

   2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

   3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a State highway, also including written notification to the Secretary of Transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

B. The applicant shall be responsible for the posting of the notice within view from the public right-of-way.

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

(2) Hearings

A. All meetings and hearings of the DRB, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than three (3) of members of the DRB. The DRB, in conjunction with any hearing under this bylaw, may:

1. Examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;

2. Take testimony and require proof material for its information; and

3. Administer oaths or take acknowledgement in respect of those matters.

B In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 223(1) are met. The DRB shall keep a record of the name, address, and participation of each of these persons.

C. The DRB may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

(3) Hearings on the Record

The Village of Ludlow has adopted the Municipal Administrative Procedures Act or "MAPA" [24 V.S.A., Chapter 36] to be applied by the DRB for purposes of hearing, on the record, any applications that require DRB approval.

A. Such hearings shall be considered "contested hearings" as defined under the MAPA, to be conducted in accordance with the requirements of the procedures act.

B. The DRB shall comply with the provisions of 12 V.S.A. §61(a) regarding conflicts of interest.

C. Public notice of hearings shall be provided in accordance with Section 241(1).

D. The chair or vice chair shall preside over the hearing; in their absence the DRB shall elect a temporary chair. The presiding officer shall cause the proceeding to be recorded.

E. All testimony of parties and witnesses shall be made under oath or affirmation.

F. The rules of evidence as applied in civil cases in superior court shall be followed. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible to proof under those rules, evidence not admissible under those rules may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs.

G. Requirements regarding ex parte communications shall be followed. No member of the DRB shall communicate on any issue in the proceeding, directly or indirectly, with any party, party's representative, party's counsel, or any interested person in the outcome of the proceeding while the proceeding is pending without additional notice and opportunity for all parties to participate. All ex parte communications received by DRB members, all written responses to such communications and the identity of the person making the communication shall be entered into the record.

H. Members of the DRB shall not participate in the decision unless they have heard all the testimony and reviewed all the evidence submitted in the hearing. This may include listening to a recording, or reading the transcripts of testimony they have missed, and reviewing all exhibits and other evidence prior to deliberation.

I. All final decisions shall be in writing and shall separately state findings of fact and conclusions of law in accordance with Section 241(4).

J. Transcripts of proceedings shall be made upon the request and payment of reasonable costs of transcription by any party.

(4) Decisions

Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of the Board. At the close of the hearing, the DRB shall vote to authorize the Zoning Administrator to draft a Findings of Fact and Notice of Decision. The DRB shall issue a decision within forty-five (45) days after the adjournment of the hearing. A written decision issued by the DRB need not be adopted at an open meeting since the decision will be a public record (1 V.S.A. 312(F)). Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46th day. In addition:

A. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the

time within which appeals may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

B. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of "the Act", these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

   1. A security or performance bond in a form acceptable to the Trustees to assure the completion of a project, including conditions of approval such as landscaping, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

   2. A requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

C. All decisions of the DRB shall be sent by certified mail, within the required forty-five (45) day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing.

D. The applicant shall file the decision with the Village Clerk as part of the public record of the municipality.

SECTION 242 – RECORDING REQUIREMENTS

Within thirty (30) days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept. The applicant will be charged for the cost of the recording fees.

SECTION 243 – PLANNING COMMISSION

The Planning Commission shall consist of five (5) members appointed by the Legislative Body. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

The Commission shall adopt Rules of Procedure deemed necessary and appropriate for the performance of its functions. The Commission shall have the following duties in association with these regulations:

1. Prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;

2. Prepare and approve written reports on any proposed amendment to these regulations; and

3. Hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Legislative Body.

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct.

SECTION 250 - DEVELOPMENT REVIEW BOARD

In accordance with Section 4461 of the Act and by Resolution dated June 1995, the Selectboard of the Town of Ludlow has created a five member (plus two alternates) Development Review Board (DRB). The Selectboard upon written charges and after public hearing may remove any member of the DRB for cause.

250.1 - POWERS OF THE DEVELOPMENT REVIEW BOARD

The Development Review Board shall have the following powers:

1. To hear and decide appeals including, without limitation, where it is alleged an error has been committed in any order, requirement, decision or determination made by the Administrative Officer in connection with the enforcement of these Regulations (see Section 223(1));

2. To hear and grant, grant with conditions or deny a request for a variance (see Section 252);

3. To hear and grant, grant with conditions, or deny a request for a conditional use approval (see Section 260);

4. To hear and grant, grant with conditions, or deny proposed subdivisions, including approval of access to legally existing parcels without frontage under Section 510.2 (see Subdivision Regulations);

5. To conduct Flood Hazard Reviews (see Article 6);

6. To hear and grant, grant with conditions, or deny requests for modification of the District Regulations for a Planned Unit Development; under Section 270.

7. To conduct Local Act 250 Reviews (see Section 280).

250.2 - GOVERNING RULES

The Development Review Board will be governed by the following:

1. All applicable State Statutes;

2. All municipal zoning, subdivision and other bylaws;

3. The Municipal Administrative Procedures Act;

4. Rules of Procedure as adopted by the Development Review Board.

SECTION 252 - VARIANCES

252.1 - BASIC REQUIREMENTS

Pursuant to Title 24, Section 4469 of the Act, on appeal under Section 4465 or Section 4471 of Title 24 of the Act wherein a variance from the provisions of these Regulations is requested for a structure that is not primarily a renewable energy resource structure, the Development Review Board shall grant variances, and render a decision in favor of the appellant, if all of the following facts are found and the findings are specified in its decision:

1. Are there unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located?

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

3. Has the unnecessary hardship not been created by the appellant?

4. Will the variance, if authorized, not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy sources, nor be detrimental to the public welfare?

5. Will the variance, if authorized, represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan?

252.2 - CONDITIONS

In rendering a decision in favor of an appellant under this Section, the Development Review Board may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of the municipal plan and these Regulations.

252.3 - DECISION

The Board shall render its decision, which shall include findings of fact, within forty-five (45) calendar days after closing the hearing, and shall within that period send to the appellant, by certified mail, and to all interested parties at the hearing, a copy of the decision. A copy of the decision will be filed with the Administrative Officer and the Village Clerk of the municipality.

If the Board does not render its decision within forty-five (45) calendar days, the Board shall be deemed to have rendered a decision in favor of the appellant.

252.4 - DECISION APPEAL

An interested person(s) may appeal a decision of the Board within thirty (30) calendar days of such decision to the VT Superior Court Environmental Division. (See Sec. 4465 & 4471)

252.5 - RENEWABLE ENERGY RESOURCE STRUCTURE VARIANCE

Pursuant to Title 24, Section 4469 of the Act, on appeal under Section 4465 or Section 4471 of Title 24 of the Act wherein a variance from the provisions of a these Regulations is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant such variances, and render a decision in favor of the appellant, if all of the following facts are found and the findings are specified in its decision:

1 Is it unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations?

2. Was the hardship not created by the appellant?

3. Will the variance, if authorized, not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy sources, nor be detrimental to the public welfare?

4. Will the variance, if authorized, represent the minimum variance that will afford relief and represent the least deviation possible from the zoning regulation and from the plan?

SECTION 260 - CONDITIONAL USES

(In accordance with sec. 4414 (3) (2))

In any zoning district the conditional uses specified in these Regulations as “Conditional Uses” are permitted only by approval of the Development Review Board, if, after public notice and public hearing, the Development Review Board grants site plan approval and determines that the proposed use shall conform to the general and specific standards prescribed in this Section. In granting such conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of the municipal plan and these Regulations.

The Zoning Administrator, subject to the time limitations of 224 of the Regulations, may approve an application for a change in use from one approved conditional use to another conditional use, listed in subparagraph C below, provided that:

1. The Zoning Administrator finds that the proposed conditional use complies with the conditional use standards listed in 260 and 260.2; and

2. The Zoning Administrator MUST notify the owner or owners of all abutting properties of the proposed changed in use at least 15 days prior granting a permit for the change in use

3. The proposed conditional use is no more objectionable in character; and

4. The proposed conditional use is one of the following: home occupation, retail store, personal service, professional service or business office and is listed as a conditional use in the zoning district; and

5. The proposed conditional use is in the same unit and has the same square footage as the conditional use it is replacing; and

6. The conditions set forth in the Conditional Use Permit for the pre-existing use shall remain in full force and effect and the applicant agrees in writing to be bound by those conditions.

260.1 - APPLICATION PROCEDURE

With an application for conditional use approval, the owner shall submit to the Development Review Board: (a) two sets of site plan maps, drawn in an appropriate scale, acceptable to the Development Review Board, and (b) supporting data, which shall include the following information:

1. Name and address of the owner of record of the property, or valid sales agreement, names of owners of adjoining lands, name and address of person or firm preparing map, scale of map, north arrow and date.

2. Acceptable survey or plot plan of property.

3. Site plans shall show or designate the following:

   a) The acreage of entire parcel

   b) The location, height, and spacing of existing and proposed structures;

   c) Open spaces and their landscaping;

   d) Streets;

   e) Driveways;

   f) Off-street parking spaces;

   g) All other physical features, including surface waters and wetlands, stone walls and fences;

   h) Areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species.

260.2 - SITE PLAN APPROVAL

As a prerequisite to conditional use approval, the approval of the site plan by the Development Review Board is required.

In reviewing the site plans, the Development Review Board shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access and circulation, parking, landscaping, and screening.

The DRB shall review the site plan and supporting data before approval, approval with stated conditions, or disapproval, is given, and shall take into consideration the following objectives.

1. Maximum safety of vehicular and pedestrian circulation between the site and the street network. Particular considerations shall be given to visibility at intersections, traffic flow and control, pedestrian safety and convenience, and access in case of emergency.

2. Adequacy of traffic circulation, parking, and loading facilities. Particular consideration shall be given to the items in (1) above and effect of glare, noise, or odors on adjoining properties. Refuse and service areas should be included in this consideration. Provisions for snow removal should also be made.

3. Landscaping and screening. The Board may set conditions to achieve maximum compatibility and protection to adjacent property. The Board may require as a condition of approval that the landscaping as approved, be strictly adhered to. The Board shall give particular consideration to preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, the use of fencing to satisfy conditional use, and the adequacy of landscaping materials to meet seasonal conditions, soils conditions, and light on and off the site.

4. Exterior lighting. Illumination from lighting fixtures or other light sources shall be shielded or of such low intensity as not to cause undue glare, reflected glare, sky glow or a nuisance to traffic or abutting properties. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "downshield luminaire" type where the light source is not visible from any public highway or from adjacent properties. Only fixtures which are fully shielded to not expose a light source, and which do not allow light to "flood" the property, are permitted to be attached to buildings. Searchlights are not permitted. LED or other energy efficient lighting shall be required. The Development Review Board may require a lighting plan under conditional use or planned unit development review procedures.

260.3 - GENERAL STANDARDS

The Development Review Board must find that the proposed conditional use shall not result in an undue adverse effect on any of the following:

a) The capacity of existing or planned community facilities.

b) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.

c) Traffic on roads and highways in the vicinity.

d) Bylaws and ordinances then in effect.

e) Utilization of renewable energy resources.

260.4 - SPECIFIC STANDARDS

The Development Review Board must find that proposed conditional use shall meet the following requirements:

a) Minimum lot size of the zoning district;

b) Setbacks of the zoning district;

c) The standards under PERFORMANCE STANDARDS, Section 550 of these Regulations;

d) Minimum off-street parking and loading facilities;

e) Any other requirements of these Regulations pertinent to the proposed conditional use.

A nonconforming structure shall not be required to meet the Specific Standard(s) that address those aspects of the structure that are the reason for its non-compliance.

260.5 - DECISION

The Development Review Board shall act to approve or disapprove any such requested conditional use within forty five (45) days after the date of the final public hearing held under this Section, and failure to so act within such period shall be deemed approval.

260.6 - BOND TERM AND FORFEITURE

A performance bond or other surety may be required by the Development Review Board pursuant to Conditional Use Review. The suggested amount, term, and conditions of forfeiture, shall be stated in the decision, which requires the surety shall be reflected in the contract. The surety contract shall be filed with the Village Clerk, and shall be satisfactory to the legislative body as to the dollar amount and form, sufficiency, and manner of execution.

260.7 - MINOR AMENDMENTS

The Administrative Officer may review and approve amendments to previously approved development providing it shall not have the effect of substantially altering any impact under any

of the standards set forth in the Zoning Regulations nor have the effect of substantially altering any of the findings of fact or conditions of the most recent approval by the Development Review Board.

SECTION 261 – NONCONFORMING USES

(In accordance with sec.4412 (7))

It is the purpose of this Section to regulate the expansion and undue perpetuation of nonconforming uses.

261.1 - "NONCONFORMING USE" DEFINITION

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

261.2 - CONDITIONS OF CONTINUATION AND/OR CHANGE OF NONCONFORMING USE

Any nonconforming use may be continued or the nonconforming use changed subject to the following:

1. No nonconforming use may be changed, except to a conforming use or with a conditional use approval from the DRB, to a use which, in the opinion of the Board, is of the same or a more restrictive nature or another nonconforming use which is no more objectionable in character.

2. A nonconforming use, once it has been changed to or replaced by a conforming use, shall not be changed back to a nonconforming use.

3. A nonconforming use, which has been abandoned or discontinued for a period of six (6) months, shall not be resumed without conditional use approval from the Development Review Board. A nonconforming use which has been abandoned or discontinued for more than 1 year may not be reestablished.

4. A nonconforming use may be extended or expanded only with conditional use approval from the Development Review Board, which shall have determined that no greater detrimental effect upon the community or the neighborhood will result.

5. Nothing in these Regulations shall prevent the maintenance or repair of a complying structure containing a nonconforming use, provided such maintenance or repair does not cause the structure to become nonconforming.

6. In the event the structure, containing a nonconforming use, has been unintentionally damaged or destroyed, such structure may be reconstructed or restored, and the nonconforming use reestablished subject to conditional use approval from the Development

Review Board, provided an application for a conditional use permit is filed with the Zoning Administrator within one (1) year of the date of the damage or destruction.

SECTION 262 - NONCONFORMING STRUCTURES

It is the purpose of this Section to regulate the expansion and undue perpetuation of nonconforming structures.

262.1 - "NONCONFORMING STRUCTURE" DEFINITION

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

262.2 - CONTINUATION OF NONCONFORMING STRUCTURE

Any nonconforming structure may be continued subject to the following:

1. Nothing in these Regulations shall prevent the maintenance or repair of a nonconforming structure.

2. Any expansion including vertical and/or enlargement to a nonconforming structure must comply with all aspects of the Regulations.

3. This Section shall not be construed to permit any unsafe structure, or to affect any proper procedures to regulate or prohibit the unsafe use of a structure.

4. A nonconforming structure that is unintentionally destroyed by fire, disaster, act of God or other unintentional cause may be reconstructed or restored, to its original form provided a zoning permit for the reconstruction or restoration is filed with the Zoning Administrator within one year of the date of the damage or destruction.

SECTION 263 – NONCONFORMING LOTS OR PARCELS

It is the purpose of this Section to regulate the expansion and undue perpetuation of nonconforming lots and parcels.

263.1 - "NONCONFORMING LOTS OR PARCELS" DEFINITION

"Nonconforming lots or parcels" mean lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

263.2 - CONTINUATION OF NONCONFORMING LOTS OR PARCELS

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of 1973 of the original Village Zoning Regulations or any lot that

is shown on a survey and/or created in a deed and filed in the Village land records after 1973 and prior to the adoption date of these bylaws may be developed for the purposes permitted in the district in which it is located, even though nonconforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty (40) feet [§4412(2) of the Act]. Provided, however:

1. Yard dimensions and other building requirements not involving area or frontage of the lot shall conform to the Regulations for the district in which the lot is located.

2. This section constitutes a variance of lot requirements for certain existing small lots; the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.

SECTION 270 - PLANNED UNIT DEVELOPMENT

In accordance with the provisions set forth in Section 4417 of the Act, and where permitted in the Zoning Districts, the modification of the District Regulations by the Development Review Board is permitted simultaneously with Subdivision Plat Approval, under the following procedures:

The Planned Unit Development (PUD) approval process is divided into two (2) separate steps:

1. Under this section (Section 270), the developer and the DRB, at public hearing, previously warned, will review the concept of the proposed project. The DRB will determine the allowed modifications and the different areas of land required for each use. These will be shown on the approved Subdivision Plat; then

2. The developer will apply for Conditional Use Approval for the proposed project under procedures defined in Section 260.

(*Note: The developer may request an informal concept review of the project, to be held at a public meeting, prior to step 1 above*)

270.1 - PURPOSE

The purpose of the Planned Unit Development (PUD), provisions is to encourage clustering of buildings and development of land in a manner that provides the most appropriate use of land, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of "Open Space", and to provide for a mixture and variety of housing types and/or commercial uses at different densities. PUD indicates a mixed development**.** PUDs are allowed in the Village Residential District and the Village R-C (R-C) District.

270.2 - APPLICATION PROCEDURE

All applications for PUD Subdivision Plat Approval shall be submitted to the Administrative Officer, along with the appropriate fees and accompanied by:

1. Two (2) sets of preliminary plats for the PUD shall be submitted and will show:

   a) Number of acres within the proposed PUD, location of property lines, existing easements, proposed areas for commercial and/or industrial uses, natural and scenic areas, watercourses, and other major physical features;

   b) Names of owners of record of adjacent acreage;

   c) Width, grade, and location of existing and proposed roads within the area of the PUD;

   d) Location of connection with existing municipal water supply, if applicable;

   e) Location of connection with existing municipal sewerage system, if applicable;

2. Statement describing all proposed modifications of the Zoning Regulations requested;

3. Description of the financing and membership of any management organization that will be responsible for the ownership, use, and maintenance for the commonly owned property, or facilities;

4. A plat showing the number of dwelling units, commercial units, and commercial areas that could be permitted if the land were subdivided within the District in strict conformance with the requirements of zoning and subdivision regulations for the district.

270.3 - MODIFICATIONS

In a PUD the DRB may modify the Regulations to allow for the clustering of dwelling units, commercial and industrial units, or any combination thereof, where such clustering is not otherwise permitted within the district and on lots where they do not conform in lot size, lot coverage, setbacks within the PUD, and required open space for the District. In all other respects, buildings shall conform to zoning district standards.

270.4 - DRB REVIEW

The DRB shall review the preliminary plat and the requested modifications and determine:

a) The areas of land required for commercial and industrial buildings and any land required for commercial use;

b) The land to be dedicated to common land;

c) The land to be dedicated to common accessory use;

d) Any land the DRB determines is not suitable for development;

e) The allowable modifications.

f) The number of dwelling units allowed.

270.5 - STANDARDS FOR REVIEW

The following general standards shall be met in order for the Development Review Board to approve the application:

1. The PUD is consistent with the Municipal Plan.
2. The allowed uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.
3. The overall density of the project shall not exceed the number of residential, commercial, and industrial units permitted if the land were subdivided into lots in accordance with the District Regulations.
4. The PUD is an effective and unified treatment of the development possibilities on the project site, and the development plan makes appropriate provision for preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural man-made features.
5. Mixed uses are arranged so as to be compatible and insure visual and aural privacy for residents of the project.
6. The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.
7. The commercial and industrial units' acreage shall not be included in the density calculation for the residential part of the project. Density shall be calculated by assuming the footprint of the building is the maximum percent coverage allowed or the minimum lot area, whichever is greater.
8. The commercial acreage without buildings shall not be included in the density calculation for the residential part of the project.
9. The common accessory use land shall be a maximum of 20% of the total common land.
10. The minimum project size shall be 10 acres.
11. No building shall be built within 50 feet of the overall project property boundary.

270.6 - CONDITIONS OF APPROVAL

The Development Review Board shall attach conditions to PUD preliminary Subdivision Plat approval, including but not limited to:

1. The DRB shall establish, as a condition of approval, a procedure for the developer to transfer title of the common land to a management association, homeowners association or a similar entity, that will be responsible for the ownership, use, management, maintenance,

and financing of all commonly owned property or facilities; this association or similar legal entity will have clear legal authority to maintain and exercise control over such common areas and facilities and will have the power to compel contributions from its members.

2. The DRB may, with the approval of the developer, attach conditions on the manner in which the "Common Open Space" may be used, as defined hereafter.

3. The DRB shall establish such conditions on the ownership and financing of the commonly held land and facilities so as to ensure the common land is preserved in its intended state.

270.7 - DECISION

1. The DRB shall hold noticed public hearings on the PUD preliminary Subdivision Plat Approval application and the requested modifications.

2. The DRB shall review the preliminary plat and the requested modifications and shall preliminarily grant, modify and grant, or deny the plat and the requested modifications.

3. After the DRB's preliminary approval, the developer shall submit for final approval, at a public hearing, a recordable Subdivision Plat (Mylar). The approval of this Plat shall be the final approval.

4. Failure by the Development Review Board to act upon such plat within forty-five days (45) after the final public hearing has been closed shall be deemed approval.

5. Upon DRB approval, the applicant shall submit the subdivision Plat, a Mylar suitable for recording, and any appended material, to the Village Clerk to be recorded in the Ludlow Land Records. Upon filing, which shall represent the final decision of the DRB, the Plat and the appended material shall become a part of the Village of Ludlow Zoning Regulations.

270.8 - APPEALS

An interested person may appeal the final decision within thirty (30) days from the date of the final decision, to the VT Superior Court Environmental Division under 24 V. S. A. §4471.

270.9 - CONDITIONAL USE APPROVAL

Upon final Subdivision Plat Approval the applicant may submit to the DRB an application for conditional use approval for the PUD under Section 260.

SECTION 280 – LOCAL ACT 250 REVIEW

Local Act 250 Review of municipal services as set forth under § 4420 of the Act:

1) The Development Review Board is hereby authorized to undertake local Act 250 review of municipal impacts caused by a "development" and/or a "subdivision," as such terms are defined in 10 V.S.A. Chapter 151.

2) With respect to such "developments" and/or "subdivisions," the Development Review Board, pursuant to the procedures established under 24 V.S.A. Chapter 36 (the Municipal Administrative Procedures Act or "MAPA"), shall hear applications for local Act 250 review of municipal impacts at a duly warned public hearing.

3) All applicants for Act 250 permits for such "developments" and/or "subdivisions" located in the Village of Ludlow shall go through this review process, unless all of the following apply:

   a) The applicant can establish to the satisfaction of the Development Review Board that the applicant relied on a determination by the Natural Resource Board's local district coordinator that Act 250 jurisdiction did not apply to the development or subdivision in question, and based upon that reliance, the applicant obtained local permits without complying with this Section.

   b) The Natural Resource Board's local district coordinator's jurisdictional ruling was later reconsidered or overturned on appeal, with the result that Act 250 jurisdiction does apply to the development or subdivision in question.

   c) The Development Review Board waives its jurisdiction under this Section in the interest of fairness to the applicant.

4) Determinations by the Development Review Board regarding whether or not to waive its local Act 250 review jurisdiction shall not be subject to review.

5) In the Development Review Board's local Act 250 review proceedings, the applicant shall demonstrate to the satisfaction of the Board that the proposed development and/or subdivision:

   a) Will not cause an unreasonable burden on the ability of the municipality to provide educational services.

   b) Will not cause an unreasonable burden on the ability of the municipality to provide municipal or governmental services.

   c) Is in conformance with the Municipal Plan as adopted in accordance with the Act.

6) A violation of the provisions of this Section shall be subject to enforcement as a violation under Section 240 of this Bylaw. At the request of the Planning Commission, the Development Review.

7) Board may provide comments to the Planning Commission on all other Act 250 criteria for any "development" and/or subdivision within the Village of Ludlow undergoing state Act 250 review.

ARTICLE 3: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

SECTION 310 - ESTABLISHMENT OF ZONING DISTRICTS

The Village of Ludlow is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

"V-R" Village Residential District

"R-C" Village Residential/Commercial District

"L-P" Ludlow Preservation District

(Note: A government recreation area may exist in any district)

SECTION 320 - ZONING MAP

The location and boundaries of Zoning Districts are established as shown on the attached Official Zoning Map entitled "Zoning Map of Ludlow L01". The Official Zoning Map is hereby made a part of these Regulations, together with all future amendments. No amendment to this ordinance, which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry has been made on said map, signed by the legislative body, and attested to by the Clerk of the municipality. No changes of any nature shall be made in the Official Zoning Map, except in conformity with Section 4441 and 4442 of the Act. Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map (which shall be located in the office of the Clerk of the municipality) shall be the final authority as to the current zoning status of land and water areas.

SECTION 330 - INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way, shall be construed to follow such center lines.

2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

3. Boundaries indicated as following shorelines shall be construed as the normal mean water level.

4. Boundaries indicated as parallel to or extensions of features in 1 through 3 above shall be interpreted by the Administrative Officer, whose decision may be appealed to the DRB for interpretation.

5. Where district boundary descriptions are referenced to a tax map, those descriptions will take precedent.

6. Where circumstances are not covered by 1 through 5 above, the Development Review Board shall interpret the district boundaries.

ARTICLE 4: ZONING DISTRICT REGULATIONS (PURPOSES AND STANDARDS)

SECTION 410 – LUDLOW PRESERVATION DISTRICT (L-P)

The purpose of the Ludlow Preservation District is to maintain the special character and architectural integrity of this area of the Village in accordance with 24 V.S.A. §4414(1)(F).

	Permitted Uses		**Conditional Uses**
1	Single-Family Dwelling	1	Two-Family Dwelling
2	Accessory Uses and Upgrading	2	Professional Service
3	Agriculture and Forestry	3	Day Care Center, child or Adult
4	Home Occupation	4	Multiple-Family Dwelling
		5	Inns
		6	Bed and Breakfast
		7	Tourist Home
		8	Personal Service
		9	School

	Residential Uses	**Non-Residential Uses**
Lot Area Minimum		10,000 sq ft
Single-Family Dwelling	10,000 sq ft	
Two-Family Dwelling	10,000 sq ft	
Multiple-Family Dwelling	5,000 sq ft/unit	
Lot Frontage Minimum	70 ft	70 ft
Lot Depth Minimum	125 ft	125 ft
Front Yard Setback Minimum[1]	30 ft	30 ft
Rear Yard Setback Minimum	30 ft	30 ft
Side Yard Setback Minimum	8 ft/each side	8 ft/each side
Lot Coverage Maximum	12% / Not to exceed 2,500 sq ft total footprint[2]	12% / Not to exceed 2,500 sq ft total footprint[2]
Building Height Maximum	35 ft or 3 stories, whichever is less	35 ft or 3 stories, whichever is less

[1] Measured from the traveled portion of the edge of the right-of-way, including sidewalks, if they exist

[2] Does not include accessory buildings (i.e. attached and not attached)

Additional District Standards:

A. **Development Review Board Approval Required**. In order to further the purpose of the L-P District, review by the Development Review Board is required for exterior alterations or

additions of existing buildings and new buildings within this District in accordance with these additional standards. DRB review is required for:

a. Addition to or alteration of the exterior of a building which increases or decreases the square footage of the building, whether enclosed or not.
b. The alteration of an exterior wall of a building by tearing down or removing any portion thereof.
c. Filling in, boarding up, closing or enclosing any portion of an existing window, door space, porch, or breezeway.
d. The addition or removal of materials to or from the exterior of a building where materials so added or exposed are of a different composition from those existing (does not apply to roofing).
e. The alteration of the roof line.
f. The construction of a building or structure in the Preservation District.
g. The demolition or relocation of a building or structure.
h. Fences and landscaping walls greater than 6.5 feet in height.
i. Installation of solar panels.

B. **Exemptions**. DRB review is not required for:

a. Changes in use that do not cause any exterior changes in appearance of the building or lot. (Conditional use review may be required for a change in use.)
b. The maintenance, repair or replacement of architectural features using materials of similar composition, type and appearance as the prevailing historic style of the structure (including doors, windows and siding).
c. Replacement of doors and windows using the existing opening and using the closest available standard size for the window or door. The preservation of window patterns, sizes and proportions, as well as original window features such as trim, sash and moldings, is encouraged.
d. Replacement of roofing keeping the same roofline.
e. Construction of an accessory building/structure with a floor area no more than ~~120~~ 144 square feet.
f. Painting of exterior walls and trim.
g. Interior renovations.
h. Fences and landscaping walls no more than 6.5 feet in height.

C. Applications. Application for all permits required under this section shall include sufficient detail to clearly display and/or explain all aspects of the proposed alterations.

D. Site Design Standards

1. **Exterior Alterations**. Exterior alterations to any existing structure within the Ludlow Preservation District shall require a permit.-The most significant views of a building are those immediately visible from a public street or road (primary façade). Therefore, primary facades are most important and shall be carefully reviewed for adherence to the following standards:

a. Alterations of primary facades shall and alterations of secondary facades should:
   1. Preserve the proportion of a building and its original elements, massing and roofline.
   2. Retain and repair historic features, when possible.
   3. Remove non-historic materials, when possible.
   4. Locate changes (such as a new window, handicap ramp, etc.) on the secondary facades, as much as possible.

b. Alterations of primary facades shall not and alterations of secondary facades should not:
   1. Extend or cut back roof overhangs.
   2. Block primary facades from the street or road.
   3. Include or result in oversize dormers and windows.
   4. Change the location of principal entranceways, unless to restore the original historic entrance location or unless the new location would not diminish the building's historic integrity.

2. **Additions**. Additions to existing buildings shall be compatible with the original structure, and avoid insensitive additions that diminish a building's historic and architectural integrity. At the same time, exact matching of new and old materials is not required. "Change over time" presents many creative opportunities that are appropriate for new uses. The following standards seek to define an appropriate balance between these two extremes.

   a. Additions to buildings shall:
      1. Respect the scale of the original building and neighboring historic structures.
      2. Be compatible in roof form, window heights and door opening sizes and proportions.
      3. Minimize the removal of original materials at an addition's connection to the original structure.
      4. Be constructed with similar or compatible material types.
      5. Use trim compatible with the original trim.
      6. Be located behind the primary structure, if possible. New walls will be set back from the face of the original building.
   b. Additions to buildings shall not introduce style and features that are incompatible with the original structure.
   c. Additions to existing buildings shall:

      1. Respect the scale of the original building and neighboring historic structures.
      2. Be compatible in roof form, window heights and door opening sizes and proportions.
      3. Minimize the removal of original materials at an addition's connection to the original structure.
      4. Be constructed with similar or compatible material types.
      5. Use trim compatible with the original trim.
      6. Be located behind the primary structure, if possible. New walls will be set back from the face of the original building.
      7. Not introduce style and features that are incompatible with the original structure.

3. **New Development**. Within the Ludlow Preservation District, development shall reinforce a traditional, compact village pattern characterized by pedestrian scale and orientation, a well-defined streetscape, and sidewalks to facilitate pedestrian circulation. While building design is not required to reflect any one architectural style or era, the following standards apply to new and expanded or altered structures subject to conditional use approval:

    a. The exterior design of buildings, including the arrangement, orientation, texture and materials, shall be compatible and harmonious with surrounding structures within the district. Buildings shall be oriented toward, and relate both functionally and visually, to public streets and/or common greens, parks or plazas. The Board may impose a maximum setback to achieve a consistent streetscape.

    b. The scale and massing of buildings, including height, width, street frontage, roof type and façade openings, shall be compatible and harmonious with surrounding structures within the district. Consideration shall be given to buildings serving special civic, social or cultural functions, including places of worship, which may be designed to serve as prominent focal points within the district.

    c. Drive-through lanes and drive-up windows are specifically prohibited.

    d. New buildings shall:

        1. Have a principal façade that is compatible with the precedence of nearby structures in terms of scale, massing, and alignments.
        2. Use architectural types appropriate to the scale and intended use of the building, rather than super-sizing or down-sizing a building type for an inappropriate use.
        3. Place ancillary structures in less visible locations to the side and rear of the primary building.

4. **Demolition of Historic Structures**. No building that is identified as a contributing structure to the Ludlow Preservation District which is listed on the *National Register of Historic Places, State Register of Historic Places, or Vermont Historic Sites and Structures Survey* shall be demolished, in part, or in its entirety, without the approval of the Development Review Board as a conditional use in accordance with Section 260. In addition to the application requirements and associated standards set forth in item 2 above, the following submission requirements and associated standards are required:

    a. The applicant shall provide photographs that clearly indicate the current condition of the structure.

    b. The applicant will submit documentation that clearly indicates the extent of the proposed demolition.

c. Not less than 10 days prior to the Development Review Board's first public hearing to consider the application, the applicant shall provide a copy of the complete application, including all accompanying materials listed in subsections a and b above, to the Vermont Division for Historic preservation.

d. In granting approval for demolition, the Development Review Board shall find that a minimum of one of the following standards has been met:

   1. The structure poses an immediate threat to public health and safety;

   2. The retention of the structure would result in undue hardship on the part of the owner; or

   3. The proposed demolition, although involving a portion of a contributing structure, is only a minor portion of the structure.

e. Prior to granting approval for demolition, the Board may recess the public hearing for not more than 120 days to provide an opportunity for any interested person to demonstrate that the proposed demolition does not meet any of the three standards set forth in subsection d above, and that viable alternatives to demolition are available.

5. Standards or Specific Building Details

a. **Rooflines and Materials**
   1. The original form of rooflines, overhangs and materials shall be preserved to the extent possible. New dormers on existing buildings shall be modest in size and set back from the roof eave. Dormer form and detailing shall be compatible with the building's architectural style.
   2. The decorative features of roofs, including trim and ornamentation of roof materials, shall be preserved. Should the cost of detailing roof elements be prohibitive, the proportions shall be preserved with simplified detailing.
   3. Roof elements that add to the building's interest and diversity shall be preserved.

b. **Windows**
   1. The preservation of window patterns, sizes and proportions, as well as original window features such as trim, sash and moldings, is required, particularly on primary facades.
   2. The repair of historic windows is preferred to replacement. This is particularly important on primary facades.
   3. Windows in additions shall be compatible with the original windows in the historic building.
   4. Shutters shall be sized to fit the windows they frame.

c. **Doors and Entrances**
   1. Door placement, appearance, materials and size shall be preserved on primary facades. Variations are allowed on secondary facades, but shall be coordinated as much as possible with the primary facade.

d. **Porches**

1. The original form and decorative features of porches shall be preserved or repaired.
2. Replacement porches shall match historical locations or use appropriate historical precedents.
3. The DRB may take into account the cost of replicating historic details in determining whether a simplified form, which retains the proportions and overall character of the original details, may be employed.

e. **Trim**. Detailing of trim elements shall, in order of preference:
1. Repair existing trim.
2. Replicate original trim, if possible.
3. The standard of 4(c) may apply to employing simpler but compatible trim detailing.

f. **Exterior Materials**
1. Wood Alternatives: The use of synthetic products is allowed, but not at the expense of compatibility with the original structure. Synthetic products will be considered on a case-by-case basis. The applicant shall provide samples of any such materials to be used.

g. **Masonry**
1. Preserving the original appearance of stone foundations is encouraged, even when replacing with poured concrete.
2. When re-pointing stone or brick, the original appearance of the mortar joints should be duplicated. Hard mortars that could lead to cracks developing in the stone or brick should be avoided.

h. **Exterior HVAC**
1. Exterior heating, ventilation, and air conditioning (HVAC) equipment (not including window-mounted air conditioning units) should be placed to the rear, side or top of the building and screened from public view.

i. Should the cost of meeting these Standards for Specific Building Detail be prohibitive, the proportions shall be preserved with simplified detailing.

District Description

The Ludlow Preservation district includes the following parcels of land as identified on Local Map No. 23, produced in 1991 by Cartographic Assoc. Inc., municipal mapping consultants:

Block 01, lots 22, 23, 24, 25, 27, and 28

Block 02, lots 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 42, 43, 44, 45, 46, 47, 50,

51, 56, 57, and 58

Block 03, lot 48

Block 05, lots 1, 2, 3, 4, 7, 8, 1O, 11, 15, 15.1, 21, 24, 26, 28, 31, 32, 33, 34, 35, and 36

And as indicated on the attached “Ludlow Preservation District Map”

SECTION 420 - VILLAGE RESIDENTIAL DISTRICT (V-R)

The purpose of the Village Residential District is to serve as a medium-density residential neighborhood along walkable neighborhood streets, is served by municipal water and sewer, and surrounds the village center. This area shall allow for a mix of compatible housing types that serves a broad spectrum of income levels. In this District, residential use of upper floors of existing buildings will be encouraged. Such development should occur at densities and uses which will maintain the traditional social and physical character of the Village including its historic and scenic resources, while not exceeding the capacity of the lands, waters, services and facilities to absorb such densities.

Description: Zoning Map is official delineation of District.

District Standards	Residential Uses	Non-Residential Uses
Lot Area Minimum		10,000 sq ft
Single-Family Dwelling	5,000 sq ft	
Two-Family Dwelling	5,000 sq ft/unit with 10,000 sq ft minimum lot area	
Multiple-Family Dwelling	5,000 sq ft/unit with 15,000 sq ft minimum lot area	
Lot Frontage Minimum	60 ft	70 ft
Lot Depth Minimum	80 ft	100 ft
Front Yard Setback Minimum[1]	10 ft	20 ft
Rear Yard Setback Minimum	15 ft	15 ft
Side Yard Setback Minimum	8 ft/each side	15 ft/each side
Lot Coverage Maximum	50%	30%
Building Height Maximum	25 ft	25 ft

[1] Measured from the traveled portion of the edge of the right-of-way, including sidewalks, if they exist

Demolition of Historic Structures. No building that is identified on the *National Register of Historic Places, State Register of Historic Places, or Vermont Historic Sites and Structures Survey* shall be demolished, in part, or in its entirety, without the approval of the Development Review Board as a conditional use in accordance with Section 260. In addition to the application requirements and associated standards set forth in item 2 above, the following submission requirements and associated standards are required:

a. The applicant shall provide photographs that clearly indicate the current condition of the structure.

b. The applicant will submit documentation that clearly indicates the extent of the proposed demolition.

c. Not less than 10 days prior to the Development Review Board's first public hearing to consider the application, the applicant shall provide a copy of the complete application, including all accompanying materials listed in subsections a and b above, to the Vermont Division for Historic preservation.

d. In granting approval for demolition, the Development Review Board shall find that a minimum of one of the following standards has been met:

   i. the structure poses an immediate threat to public health and safety;

   ii. the retention of the structure would result in undue hardship on the part of the owner; or

   iv. the proposed demolition, although involving a portion of a contributing structure, is only a minor portion of the structure.

e. Prior to granting approval for demolition, the Board may recess the public hearing for not more than 120 days to provide an opportunity for any interested person to demonstrate that the proposed demolition does not meet any of the three standards set forth in subsection d above, and that viable alternatives to demolition are available.

SECTION 430 - VILLAGE R-C DISTRICT

The purpose of the Village R-C District is to serve as the focus of social and economic activities in the community. Served by public water and sewer services, sidewalks and an urban roadway network, this area provides for the highest-density of commercial, civic, residential and other compatible development in the community. Residential or professional office uses are encouraged in the upper floors above commercial uses in this area. This District includes the Village Center that serves as Ludlow's traditional, compact commercial center that has a mix of commercial, civic and residential uses, and public gathering places. This District also includes adjacent mixed use areas that are encouraged to redevelop as an extension of the traditional village center, following the same traditional village land development patterns with multi-modal transportation infrastructure (i.e. sidewalks, on-street parking, bus stops, street trees and other pedestrian amenities).

Description: Zoning Map is official delineation of District.

	Permitted Uses		Conditional Uses
1	Single-Family Dwelling	1	Retail Service (including Car Wash)
2	Two-Family Dwelling	2	Retail Store (excluding Adult
3	Accessory Uses or Building		Bookstore/Adult Entertainment)
4	Home Occupation	3	Personal Service
5	Home Child Care	4	Professional Service
6	Accessory Apartment	5	Business Office
7	Governmental Recreation Area	6	Restaurant/Bar
8	Upgrading	7	Health Care Facility/Nursing Home
		8	Private Club
		9	Day Care Center
		10	Funeral Home
		11	Multiple-Family Dwelling (Multi-Unit)
		12	Municipal or Private Parking Area
		13	Professional Residence Office
		14	Inn
		15	Veterinary Office - Animal Hospital
		16	B & B
		17	Motel
		18	Tourist Home
		19	Outdoor and Indoor Recreational Use
		20	Gas Stations
		21	Senior Housing
		22	Specialty Craft Shop
		23	Real Estate Office
		24	Financial Institutions
		25	Theaters (excluding Adult Entertainment)
		26	Municipal Government Building
		27	Auto Service Station
		28	Outdoor Recreational Use
		29	PUD
		30	Transitional Housing

Demolition of Historic Structures. No building that is identified on the *National Register of Historic Places, State Register of Historic Places, or Vermont Historic Sites and Structures Survey* shall be demolished, in part, or in its entirety, without the approval of the Development Review Board as a conditional use in accordance with Section 260. In addition to the application requirements and associated standards set forth in item 2 above, the following submission requirements and associated standards are required:

a. The applicant shall provide photographs that clearly indicate the current condition of the structure.

b. The applicant will submit documentation that clearly indicates the extent of the proposed demolition.

c. Not less than 10 days prior to the Development Review Board's first public hearing to consider the application, the applicant shall provide a copy of the complete application, including all accompanying materials listed in subsections a and b above, to the Vermont Division for Historic preservation.

d. In granting approval for demolition, the Development Review Board shall find that a minimum of one of the following standards has been met:

   i. the structure poses an immediate threat to public health and safety;

   ii. The retention of the structure would result in undue hardship on the part of the owner; or

   iii. The proposed demolition, although involving a portion of a contributing structure, is only a minor portion of the structure.

e. Prior to granting approval for demolition, the Board may recess the public hearing for not more than 120 days to provide an opportunity for any interested person to demonstrate that the proposed demolition does not meet any of the three standards set forth in subsection d above, and that viable alternatives to demolition are available.

ARTICLE 5: GENERAL REGULATIONS

The provisions of these Regulations shall be subject to such additions, modifications or exceptions as herein provided by the following general Regulations.

SECTION 510 - REQUIREMENTS OF THE ACT

In accordance with sections 4412 and 4413 of the Act, the following shall apply:

510.1 - HOME OCCUPATIONS

No provision of these Regulations shall infringe upon the right of any resident to use as a permitted use a minor portion of the residence or use an accessory structure for an occupation which is customary in residential areas and which does not change the character of the residential area, after request for and receipt of a Zoning Permit for the use, providing all of the following standards are met:

1. Signs shall comply with these Regulations for signs for Home Occupation.
2. No traffic shall be generated in a volume that alters the essential character of the neighborhood or substantially impairs the use of the adjacent property;
3. The Performance Standards set forth in Section 550 of these Regulations must not be exceeded;
4. Parking shall be provided off-road. Parking will not be allowed in setback areas;
5. Exterior storage of materials used in the home occupation is not permitted.
6. There shall be no potential risk to public health from the home occupation such as toxic emissions, on-site disposal of hazardous wastes, or overburdening of existing septic systems;
7. The home occupation may occupy up to 25% of the dwelling and/or attached accessory structure, but may not occupy a non-attached structure.
8. Home occupation shall not include servicing or repairing of any type of automobile or truck.

510.2 - REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with subdivision approval of the DRB, access to such a road or waters by a permanent easement or right-of-way at least 20 feet in width, in accordance with §4412(3).

510.3 - SPECIAL PUBLIC USE EXCEPTIONS

All public uses specified in Section 221.5(a) are subject to Conditional Use Review under Section 260 and the following standards shall apply

1. Unsightly or incompatible land uses, such as substations, parking lots and refuse areas, shall be screened with landscape materials suitable to local environmental conditions and be composed of materials that will screen the structure.

2. Adequate circulation, parking and loading facilities shall be provided with particular consideration to visibility at intersections, traffic flow and control, pedestrian safety, and access in case of an emergency.

3. To protect the privacy of adjoining property owners, additional yard space or setbacks of the use from the property line other than what is already required in the district may be required.

4. The density, size, or height of buildings may be increased or decreased as needed to ensure compatibility with established patterns of land use in the district, and to ensure orderly growth and development in the community.

SECTION 520 - MISCELLANEOUS REQUIREMENTS

520.1 - ABANDONMENT OF STRUCTURES

Within six months after work on an excavation for a building has begun or within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner in accordance with the Vacant and Dangerous Building Ordinance.

520.2 - BUILDING COVERAGE, OPEN PORCHES, CARPORTS, AND GARAGES

In determining the percentage of building coverage of a lot or the size of yards, porches or carports open at the sides but roofed, and all principal and accessory buildings, shall be included.

520.3 - DWELLINGS ON LOTS, PRIMARY USES ON LOTS

There shall be only one residential building, an accessory residence and its accessory structures on a lot unless otherwise approved under the Planned Unit Development. There shall be only one primary use on a lot unless otherwise approved as a Planned Unit Development under Section 270.

520.4 - GRADING

No grading cut or fill shall be carried out in any district, which leaves the slope of the finished grade in excess of one to two.

520.5 - LANDFILL

In any district, dumping of refuse and waste material for landfill is prohibited, except in an approved sanitary landfill. Loam, rock, stone, gravel, sand, cinders and soil may be used for landfill to grades approved by the Administrative Officer, after approval by the Development Review Board under Site Plan Review.

520.6 - LOTS IN TWO ZONING DISTRICTS

Where a district boundary line divides a lot of record at the time such line is adopted, the Regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

520.7 - MOBILE HOME STORAGE AND STORAGE TRAILERS

The Administrative Officer may issue a temporary zoning permit for one year from the effective date of the permit for the storage of a mobile home or trailer used for storage purposes. Such mobile homes or storage trailers may not be connected to water or sewer facilities and may not be used as a dwelling for the duration of the permit. These permits may be renewed.

520.8 - REDUCTION OF LOT AREA

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is taken for public purpose.

520.9 - REQUIRED AREA OR YARDS

Space required under these Regulations to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

520.10 - TEMPORARY USES AND STRUCTURES

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for nonconforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

520.11 - YARDS ON CORNER LOTS

Any yards adjoining a street shall be considered a front yard for the purposes of these Regulations, and shall meet the minimum front yard requirements.

520.12 - FENCES

Fences shall comply with the following standards. No permit is required to install a fence less than 6.5 feet in height. A permit issued by the Administrative Officer shall be required for the

construction of all fences 6.5 feet or taller. All fences, regardless of height, located within special flood hazard areas require a permit in accordance with Article 6.

All fences shall conform to the provision of 24 VSA Section 2817 which states that a person shall not erect or maintain an unnecessary fence or other structure for the purpose of annoying the owners of adjoining property by obstructing their view or depriving them of light and air.

A fence may be erected on a boundary line if it can be erected and maintained from the property of the person erecting it.

520.13 - WIRELESS COMMUNICATIONS FACILITIES

See existing Town of Ludlow ordinance on Communications Facilities.

SECTION 530 - PARKING AND LOADING REQUIREMENTS

530.1 - OFF-STREET PARKING SPACE REQUIREMENTS

For every building hereafter erected, extended or changed in use, there shall be provided off-street parking spaces at least as set forth below. A required driveway shall be at least twenty (20) feet clear in width, except for one and two-family uses.

1. Residential uses: single-family, two-family and multiple-family dwelling units: two parking spaces for each unit. Professional residence-office: one parking space, plus one additional parking space for every three hundred (300) square feet of office space.

2. Hotel, Motel, Tourist Home, Boarding House: one space per bedroom.

3. Dormitory, Nursing Home, Hospital: one space for every two beds.

4. Places of Public Assembly: Every structure used as a theater, amusement facility, auditorium, community center, club, stadium, library, museum, church, lodge hall, or other place of public or private assembly, which provides facilities for seating people: one parking space for every five seats. Where there are not seats provided, one parking space shall be provided for every two hundred (200) square feet of floor area.

5. Business, Professional and Medical Offices: one space for every two hundred (200) square feet of office space.

6. Commercial, Business and Unspecified Uses: one parking space for every motor vehicle used in the business, plus one parking space for every two hundred (200) square feet of floor area used for retail, service, or other customer-related purposes.

7. Restaurant, Eating and Drinking Establishments: one parking space for every one hundred and fifty (150) square feet of seating area.

8. Industrial, Wholesale, Warehouse, Storage, Freight and Trucking uses: one parking space for every motor vehicle used in the business; one parking space for every two employees.

9. Recreation: As required by the Development Review Board.

530.2 - OFF-STREET LOADING SPACE REQUIREMENTS

For every building hereafter erected, altered, extended or changed in use for the purpose of business, trade, or industry there shall be provided paved or gravel off-street space for loading and unloading of vehicles as set forth below:

1. Hotels, Motels, Hospitals, Commercial, Business, Service and Industrial Establishments: one off-street loading space for every ten thousand (10,000) square feet of floor area.

2. Wholesale, Warehouse, Freight and Trucking Uses: one off-street loading space for every seven thousand five hundred (7,500) square feet of floor area.

530.3 - ADDITIONAL PARKING SPACE REQUIREMENTS

1. The Development Review Board may require additional off-street parking and loading spaces for any use, if they find that minimum spaces are not sufficient.

2. With the approval of the Development Review Board, parking spaces may be provided by the applicant on other property, provided such land lies within three hundred (300) feet of an entrance to the principal building.

3. Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assigned to one use may not be assigned to another at the same time, except upon approval of the Development Review Board.

4. When a change of use is requested where parking and/or loading spaces were assigned to the prior use, the Development Review Board will consider the previous use in requiring parking spaces and consider, within reason, credit for that which was previously allowed. The Development Review Board should consider needs of parking and feasibility of parking being provided on the property, near the property, municipal parking lots or on the street. Traffic generated should also be considered. If change of use is from a business to same or like business, then no new parking need be provided. Shared parking spaces shall require a written agreement between parties concerned.

5. The Development Review Board may, where appropriate, require that one (1) or more parking spaces be designated as “Handicapped Parking.” Such spaces shall be a minimum of ninety-six (96) inches wide by two hundred forty (240) inches long, and will have an adjacent access aisle of at least sixty (60) inches. This access aisle may be shared with another “Handicapped Parking” space immediately adjacent.

SECTION 540 – SIGNS

540.1 - PURPOSE

The purpose of this section is to promote and protect the public health, safety and welfare by regulating existing and proposed signs in the Village of Ludlow.

It is further intended hereby to control and reduce the proliferation of signs in order to protect the economic and scenic value of the municipality and in order to prevent hazards to users of the roads in the municipality.

540.2 - REGULATIONS AND RESTRICTIONS

1. On-premise signs constructed in accordance with this section shall be considered accessory structures. No on-premise signs shall be permitted except as hereinafter provided. All signs must be the subject of a valid permit issued by the Administrative Officer.

2. Appeals of sign permits are subject to Section 251.

3. Variances for signs are subject to Section 252.

4. Violations of these sign provisions are subject to the fines and procedures described in Section 240.

540.3 - EXEMPT SIGNS

The following signs are exempt from the provisions of this ordinance except for Prohibited Signs per Section 540.4:

A. Posters as defined in these regulations. Any person erecting a poster is responsible for its removal immediately upon the conclusion of the advertised event, or after four days, whichever is sooner.

B. Political signs may be erected not more than three weeks before an election and must be removed the day after the election is held. Any person erecting a political sign is responsible for its removal. Political signs may only be erected on private property.

C. Signs erected by the Town or Village of Ludlow or the School District.

D. Signs erected by the State of Vermont or any of its Boards, Agencies or Departments.

E. Small, on-premises directional signs (e.g. “entrance” or “exit”) not exceeding two square feet in size. Up to two such signs per lot are exempt under this provision; the Zoning Administrator may issue permits for additional signs, upon filing of a sign application and a demonstration of the necessity for those signs.

   The clear intent of this provision is to allow for small signs providing traveler information. Lettering shall be generic and advertising or logos (including business names) are prohibited on directional signs placed in the front yard of a lot.

   These signs shall not be illuminated. Where free-standing, these signs shall not be more than three feet high, and shall not obstruct pedestrian or vehicular safety or circulation.

Where building-mounted, these signs shall be placed in appropriate locations related to safety issues and architectural design.

F. Residential signs as defined in these Regulations.

G. Indoor window signs.

H. Informational signs up to 16 square feet in size, on lands which have been conserved by easement or other permanent, protective measures.

I. Traffic signs located within public rights-of-way that are compliant with the Manual on Uniform Traffic Control Devices.

J. Temporary real estate signs not exceeding six (6) square feet and temporary construction signs not exceeding twenty-five (25) square feet.

K. Temporary signs for such irregularly scheduled public events as auctions, suppers, and meetings shall be promptly removed when the purpose or activity has concluded.

L. One business flag up to fifteen (15) square feet in size per business.

540.4 PROHIBITED SIGNS

The following signs are prohibited:

A. Interferes with, imitates, or resembles any official traffic control sign, signal or device, or attempts or appears to attempt to direct the movement of traffic.

B. Prevents the driver of a motor vehicle from having clear and unobstructed view of official traffic control signs and approaching or merging traffic.

C. Has any lighting that is not shielded to prevent light from being directed off-site, or at any portion of the traveled highway or street, or is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or otherwise to interfere with the operation thereof.

D. Is fraudulent or misleading, or is in violation of, or at variance with any Federal law or regulation, including one containing or providing for conditions to or affecting the allocation of Federal highway or other funds to the benefit of the State or any subdivision thereof.

E. Advertises activities which are illegal under State or Federal law.

F. Is not clean and in good repair.

G. Is not securely affixed to a substantial structure.

H. Off-premise signs except as provided in 10 VSA, Chapter 21.

I. No sign shall be erected, attached or maintained upon trees, or drawn or painted on rocks or other natural features, or upon utility poles.

J. No advertising material may be attached or placed upon any property, including but not limited to cars, fences, walls, and buildings, by anyone other than the owner or tenant of such property or his authorized agent.

K. No sign or display shall be flashing, moving, oscillating, revolving, or internally lit.

L. No sign may be erected in a public right of way.

540.5 - SIGN STANDARDS

A. **All Signs**

1. **Number and Size of Signs**. The number of signs and maximum allowable size sizes shall be as specified below.

Maximum Allowable Size of Signs [1]			
Zoning District	**Type of Use**	**# of Signs**	**Maximum Size [2, 3, 4]**
Village Residential-Commercial	Home Occupation	1	6 square feet
	Non-residential	2	15 sq. ft./each; 30 sq. ft./total [5]
	Group sign[3]	1	50 square feet
Village Residential	Home Occupation	1	6 square feet
	Non-residential	1	15 square feet
	Group sign[3]	1	15 square feet
Historic Preservation	Home Occupation	1	6 square feet
	Non-residential	1	15 square feet
	Group sign[3]	1	15 square feet

1 Signs of any type shall not exceed these maximum sizes; except as specified elswhere in these sign standards

2 The calculated area of a sign does not include its posts and cornices. However, the size of posts and cornices shall be proportional with the size of the sign.

3 If one sign is requested for a group of uses or units (e.g. multiple units in a building, multiple units on a lot) it shall not exceed fifty (50) square feet in size in the R-C District and fifteen (15) square feet in size in the V-R District. NOTE: THIS DOES NOT APPLY IF A LANDOWNER HAS MORE THAN ONE FREE-STANDING SIGN

4 The size of signs permitted herein will be considered the square footage of one face of the sign, and shall include the area of other signs attached beneath the main device.

5 The two signs allowed for within the Village R-C District for non-residential uses may be combined into one sign that does not exceed thirty (30) square feet in total area.

2. Up to two signs of any type or combination (i.e. free-standing, sandwich board, flush-mounted, projecting, soffit signs) are allowed for each lot within the Village R-C District as long as the total sign area meets the size standards as specified above. Exempt signs are not included in the calculation of sign size or number.

3. **Height**.

   a) No sign shall hang less than ten (10) feet above a public walkway.

b) No sign shall exceed twenty-five (25) feet in height in the R-C Districts or ten (10) feet in other Districts, if free standing or extended above a roof or a parapet if attached to a building.

3. **Setback**.

a) No sign shall be permitted within ten (10) feet of a property line or within the right-of-way of a public road.

B. **Free-standing Signs**

1. **Number**. One free-standing, pedestal, or post-supported sign is allowed per lot in the Village Residential, Village Residential-Commercial and Preservation Districts.

2. **Number of Sign Sides/Faces**. Free-standing signs shall only have two sides, which are parallel to each other, and no more than six inches apart.

C. **Sandwich Board Signs**.

Sandwich board signs are only allowed within the Village Residential-Commercial District and shall meet the following standards:

a) No more than one sandwich board sign is allowed per lot.

b) Sandwich board signs shall not exceed 24 inches wide by 48 inches tall;

c) Sandwich board signs shall not be placed within or block travel along sidewalks;

d) Sandwich board signs shall not be placed within or block travel along streets or rights-of-way (public or private);

e) Sandwich board signs shall be placed outside of the business during the daytime and brought inside between 10 p.m. and 7 a.m.; and,

f) Sandwich board signs are subject to all other sign standards.

D. Building-Mounted Signs

Signs that are mounted on the side of a building include flush-mounted, projecting and soffit signs. Such building-mounted signs are subject to the following standards.

1. **Number and Size**. The number and size of allowable signs shall be as specified in Subsection (A)(1) above. The size shall be determined by the extreme limits of the writing, representation, emblems, or physical structure of the sign, whichever is largest. Where mounted on a wall, these signs shall protrude no more than six inches from the wall.

2. **Projecting Signs**. For safety reasons, the lowest part of the sign or its support structures shall be at least eight feet above the sidewalk or grade directly beneath the sign.

3. **Soffit Signs**. Where a covered walkway exists on a building with more than four tenants in separate and unaffiliated ownership, each tenant may have one two-square-foot sign which is hung from the soffit. This sign shall be unlighted, hung in front of the entrance to the business which it advertises, and hung in a direction perpendicular to the walkway so that it is legible to pedestrians on the walkway. Soffit signs are permitted in addition to any other sign allowed in these sign provisions.

4. **Location**. No sign may be attached to, placed upon, nor painted upon utility poles, rocks, or other natural features. Flush-mounted signs shall be mounted in traditional locations which "fit" with the architectural design of buildings, such as over entrance doors. No sign may be placed on the roof of any building or structure.

E. **Lighting**

Lighting on any sign shall be directed and shielded so that the light shines only on the subject sign, and to prevent glare offsite, into the sky, or onto adjoining properties or roads and highways. All bulbs shall be shielded or hooded. All ground-mounted fixtures shall be screened by bushes or other appropriate means; all fixtures mounted on the sign itself shall blend in with the background color of the sign or its surroundings, as deemed appropriate for the site. Lighting on any sign shall be limited to a total of 150 watts of incandescent light or its equivalent, unless otherwise authorized for unique site- or sign-specific reasons. No sign may be internally illuminated. Where a sign or its lighting fixtures are being replaced or substantially altered, then lighting shall be brought up to these standards. Applicants must demonstrate that lighting fixtures will satisfy these standards, and are appropriate for site specific needs and circumstances.

Internally-illuminated signs existing on the date of adoption of these regulations shall remain "as-is", even if minor changes to such signs (such as sign faceplates) are proposed. However, more significant changes to these signs (such as changes in business name, sign location, or to the physical size or structure) will require complete compliance with these Regulations in effect at that time.

The Zoning Administrator may require the adjustment or relocation of any sign lighting in order to prevent glare and to ensure vehicular and pedestrian safety.

SECTION 550 - PERFORMANCE STANDARDS

550.1 - NOISE

The sound pressure level is not to exceed the following decibel levels at the property line:

General External Exposures – dB (A) (Decibels in a scale perceptible to the human ear)

1. Unacceptable:
   a) Exceeds 80 dB (A) 60 minutes per 24 hours
   b) Exceeds 75 dB (A) 8 hours per 24 hours
2. Discretionary, Normally Unacceptable:
   a) Exceeds 65 dB (A) 8 hours per 25 hours
   b) Loud repetitive sounds on site
3. Discretionary, Normally Acceptable:
   a) Does not exceed 65 dB (A) more than 8 hours per 24 hours.
4. Land Use Category:
   a) Tracts of land in which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential for the area to continue to serve it's intended purpose. Such areas could include amphitheaters, particular parks, or portions of parks, or open spaces which are dedicated to, or recognized for, activities requiring special qualities of serenity and quiet. Decibel Level – 60 dB(A)
   b) Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, picnic areas, recreation areas, playgrounds, active sports areas, and parks. Decibel Level – 70dB (A).
   c) Developed lands, properties or activities not included in categories A and B above (see General External Exposure Levels).

550.2 - FLY ASH, DUST, FUMES, VAPORS, GASES, OTHER FORMS OF AIR POLLUTION

No emission shall be permitted which can cause damage to health, animals, vegetation, or other forms of property that can cause any excessive soiling, at any point on the property of others.

550.3 - VIBRATION

No activity shall be permitted which shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner under normal conditions.

550.4 - GLARE, LIGHTS, REFLECTION

No glare, lights or reflection shall be permitted which could impair the vision of a driver of any motor vehicle, or which are detrimental to public health, safety and welfare.

550.5 - FIRE, EXPLOSIVE OR SAFETY HAZARD

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

550.6 - STORAGE OF FLAMMABLE LIQUIDS

Refer to the Vermont Department of Labor and Industry and uphold their present B.O.C.A. Regulations, or any new regulations when and as may be adopted referring to storage of flammable liquids such as liquid propane gas, fuel oil, gasoline, etc. All State regulations must be found to have been met as part of permit review procedure.

550.7 - ELECTRICAL INTERFERENCE OR HEAT

No excessive electrical interference or heat that is detectable at the boundaries of the property shall be generated.

550.8 - L.P. GAS (LIQUID PROPANE GAS)

Sales and storage of liquid propane fuel shall be subject to the Vermont Department of Labor and Industry's standards and regulations and shall be restricted to areas where the safety, health, and welfare of the public will not be compromised.

SECTION 560 - CAMPING TRAILERS

560.1 - APPLICATIONS

It shall be unlawful for any person to park a camping trailer, travel trailer, pickup coach, or motor home on any public or private property, except in accordance with these regulations as follows:

1. In an approved campground.
2. In an approved camping trailer sales lot.
3. The owner of a trailer may park it on his own property, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building (exception may be made by the Administrative Officer when terrain or permanent obstructions or lack of property makes this impossible) and no closer than six (6) feet to any lot line. This provision does not allow for commercial storage of camping trailers, travel trailers, pickup coaches, or motor homes.
4. A property owner or guest may use a camping trailer or RV as temporary living quarters for a period not to exceed 45 days of a calendar year, provided it meets all building and yard setback minimums. Exception to the 45 days may be made by the Administrative Officer if the owner is using the trailer or RV for living quarters for a reasonable period of time while building his residence, provided that it has a self- contained septic system, or is properly

hooked to the waste-water system on the lot, and the Health Officer approves the temporary hookup.

560.2 - CAMPGROUND PERMITS

No person or persons shall construct or operate a campground without first obtaining a Conditional Use Permit, under section 260, from the Development Review Board.

Application for a campground site plan approval shall be made to the Development Review Board. The application shall be accompanied with a site plan and drawings prepared by a professional engineer, showing the property lines and area of the park, a contour map, a layout of the roads, walkways, trailer lots, parking areas, garbage collection stations, electrical distribution, water lines, sanitary sewer facilities and storm sewer drainage facilities.

560.3 - CAMPGROUND STANDARDS

The following regulations shall apply in respect to all campgrounds:

1. A campground shall have an area of not less than three (3) acres.
2. Campgrounds shall provide for individual trailers, access driveways and parking.
3. Each trailer site shall be at least 2,500 square feet in area, and have a compacted gravel pad at least twenty feet in width.
4. There shall be an undeveloped area of not less than 100 feet in depth between all camping trailer and tent sites and the traveled portion of any adjacent highway, and any other boundary of the campground shall be landscaped with existing or newly planted trees or other plant materials. The DRB may reduce or waive the requirement of this subsection when after hearing it has found and determined that:
   a) Such a reduction or waiver will make it possible to preserve an attractive view from the site.
   b) Granting of the reduction or waiver will be in the public interest.
5. Each lot shall be located in a dry and well-drained area.
6. All applicable standards of the Site Plan Approval, Section 260.4 of these Regulations.

SECTION 570 - MOBILE HOME PARKS

All mobile home parks are subject to the State Regulations for mobile home parks. An application to the municipality for a mobile home park shall be made under the Planned Unit Development procedures set forth under the section describing process for Planned Unit Development. The following standards must be met before a mobile home park is approved:

1. A minimum of 8,000 square feet of lot area shall be provided for each mobile home, including at least 5,000 square feet for each mobile home site, plus at least 3,000 square feet for each mobile home in common open space, exclusive of roads. Such common space shall be accessible to all residents of the mobile home park, and shall have a minimum dimension of thirty (30) feet.

2. Site planning improvements shall provide for:

   a) Facilities and amenities appropriate to the needs of the occupants and meeting minimum state requirements;

   b) Safe, comfortable and sanitary use by the occupants under all weather conditions and meeting minimum state requirements;

   c) Practical and efficient operation and maintenance of all facilities and meeting all state requirements.

3. Provision shall be made for adequate setting of mobile homes to maximize energy conservation, protect existing vegetation and prevent development in environmentally sensitive areas, such as steep slopes, wet areas, shallow soils and other unique or fragile areas for the health, safety and welfare of the occupants and the entire community.

SECTION 580 – CONDOMINIUMS

Condominiums shall be developed as part of a PUD. A Condominium may also include a rental office for the purpose of renting condominium units. The overall density of the condominium project shall not exceed the number of units permitted if the land were subdivided into lots in accordance with the District Regulations.

SECTION 590 – AIRCRAFT LANDING FACILITIES

A. **Purpose**: The purpose of these provisions is to regulate aircraft landing facilities in order to protect the public health, safety and welfare; promote the responsible use of resources and protection of the environment; and to protect and maintain the quiet rural atmosphere in Village as identified in Ludlow's Municipal Development Plan.

B. **Prohibited**: The establishment of new aircraft landing facilities within the Village of Ludlow is prohibited.

C. **Permit Required**: Aircraft landing facilities are subject to approval by the State Transportation Board in accordance with 5 V.S.A. §207 and these provisions. Alteration or expansion of pre-existing aircraft landing facilities is subject to approval by the Development Review Board under conditional use review (see Section 260). Any aircraft landing facility, as defined in Article 7, which is in existence or permitted by the State of Vermont prior to the effective date of this Section shall be considered pre-existing.

D. **Exemptions**: The following are exempt from the requirements of aircraft landing facilities under Section 590 of these bylaws:

1. Routine maintenance of pre-existing aircraft landing facilities;
2. Operation of floatplanes on water bodies, including related on-water docking facilities for floatplanes;
3. Emergency medical helicopter landing facilities; and,
4. Emergency response or rescue aircraft operations.

E. **Application Requirements**: Complete applications shall include all information specified under Section 260 as well as the following additional information:

1. A detailed site plan showing the layout of the existing and proposed aircraft landing facilities, including landing surface, aircraft parking, wind indicators, taxiways, automotive access drives and parking areas, fences, lighting, landscaping, tie-down details, helipad or airstrip markings, any other facilities, and all land areas to be cleared.
2. Operational information, such as the proposed hours of operation, frequency/time of use, type of use being proposed (i.e. public, private or individual use), and the number, type and size of aircraft to be located at or use the facility.
3. A discussion of preferred approach/departure flight paths, preferred approach/departure path slopes, preferred approach/departure air speeds, preferred times of use, and other relevant factors. In addition, the plan must include a discussion of the existing physical factors, such as topography and proposed physical barriers, such as walls, fences, structures or vegetation, and how these factors would be used to reduce noise impacts. A copy of the applicant's Airport Noise Impact Boundary Analysis and comments as provided by the State of Vermont Agency of Transportation Division of Aeronautics Operations Section shall be included.

F. **Standards**: Aircraft landing facilities that are subject to these provisions shall meet the following standards and requirements:

1. Performance standards (see Section 550) and all other applicable standards in these zoning bylaws;
2. The site area and physical facilities shall be able to accommodate aircraft parking and landing pads, motor vehicle and emergency equipment access and parking, buffering and screening, and sufficient helicopter parking spaces to allow the landing of approaching aircraft without delay.
3. Minimum setbacks and buffer distances shall be as follows:

a. A 200 foot setback is required for all facilities developed near residential areas. The distance in commercial and industrial areas is 50 feet;

b. All setbacks shall be measured from the edge of the landing pad. These distances may be increased or decreased by the Development Review Board upon consideration of such factors as the number of flights, hours of operation, types of aircraft, number of aircraft, types of existing land uses in the area, topography, proximity to natural aircraft corridors, and type and nature of the proposed noise mitigation plan;

c. A 20 foot deep landscaped area must be provided around the aircraft landing facility. The landscaping shall be of coniferous trees and shrubs or similar in order to adequately mitigate noise impacts. Trees must be located so as to not encroach into an 8 (horizontal) to 1 (vertical) flight path from the landing pad in all directions.

4. All take-off, landing, and parking areas must be surfaced with a dust-proof material.

ARTICLE 6: FLOOD PLAIN MANAGEMENT ORDINANCE

(*Amended September 2, 2014; Effective September 23, 2014*)

SECTION 610 - STATUTORY AUTHORIZATION AND EFFECT

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the Village of Ludlow, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

SECTION 620 - STATEMENT OF PURPOSE

It is the purpose of this bylaw to:

Implement the goals, policies, and recommendations in the current municipal plan;
Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;

Ensure that the selection, design, creation, and use of development are reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor;

Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Village of Ludlow, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

SECTION 630 - OTHER PROVISIONS

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

B. Validity and Severability
If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

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

SECTION 640 - LANDS TO WHICH THESE REGULATIONS APPLY

A. Regulated Flood Hazard Areas
These regulations shall apply to the following areas:

Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

The stream setback area (or Local Flood Hazard Area, herein LFHA), includes the land areas within 15 feet of streams as measured perpendicular to the top of bank, located outside of the SFHA, as shown on the LFHA Overlay District Map. (The land areas depicted on this Map are illustrative of the LFHA, as they are mapped based on stream centerlines, not top of bank. On-the-ground measurements shall be used for boundary determinations.)

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

SECTION 650 - DEVELOPMENT REVIEW IN HAZARD AREAS

A. Permit
A permit is required from the Administrative Officer for all development in all areas defined in this Section. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 650 and 660. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

Tables 5.1 and 5.2 list the required application review procedures for land uses and activities within the regulated flood hazard areas.

Table 5.1 – Local Flood Hazard Area (LFHA)

#	**Activity**	**Flood Zone**
	P Permitted **C** Conditional Use Review **X** Prohibited **A** Exempted	**LFHA** (15 foot stream setback)
1	New structures	X
2	Junkyards, Storage Facilities	X
3	Fill	X
4	Fill as needed to elevate existing structures	C
5	Additions to existing structures	C
6	Accessory structures for existing structures	C
7	Grading	C
8	At grade parking	C
9	Road, driveway or utility crossings / Bridges and culverts	C
10	Public outdoor recreational facilities	C
11	Recreational vehicles	P
12	Agricultural & forestry activities in accordance with 24 V.S.A. §4413	A
13	Public utility power generating facilities regulated under 30 V.S.A. §248	A
14	Public utility transmission facilities regulated under 30 V.S.A. §248	A
15	Removal of an existing structure	A

Table 5.2 – Special Flood Hazard Areas

#	Activity	Hazard Zone	
	P Permitted **C** Conditional Use Review **X** Prohibited **A** Exempted	**Special Flood Hazard Area**	**Floodway**
1	New structures	C	X
2	Non-Substantial Improvements to Existing Structures	P	C
3	Substantial Improvement, Elevation, Relocation or Flood proofing of Existing Structures	C	C
4	Small accessory structures	P	X
5	Additions or other expansions that increase the building footprint	C	C
6	At grade parking	P	C
7	Replacement water supply or septic systems	P	C
8	Fill as needed to elevate existing structures	C	X
9	Fill	C	X
10	Grading, Excavating or Creation of a Pond	C	C
11	Maintenance of Existing Roads and Storm Drainage	A	A
12	Road improvements	C	C
13	Bridges and culverts	C	C
14	Channel Management, Shoreline/Bank Stabilization	C	C
15	Recreational vehicles	P	P
16	Building utilities	P	C
17	Storage facilities, junk yards	X	X
18	Public utilities	C	C
19	Critical facilities	X	X
20	All other development not exempted, permitted or conditionally permitted	X	X
21	Removal of a Building or Other Structure	A	A

B. Permitted Development

For the purposes of review under these regulations, the development activities listed in Table 5.2 and located in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Section 660, require only an administrative permit from the ZA.

C. Prohibited Development in Special Flood Hazard Area

Tables 5.1 and 5.2 lists development activities that are prohibited in the floodway, floodway fringe and/or local flood hazard areas.

D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for the proposed development activities in accordance with Tables 5.1 and 5.2.

E. Exempted Activities

The development activities listed in Tables 5.1 and 5.2 are exempt from regulation under this bylaw.

F. Variances & Waivers

1. **Variances**: Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. §4469, §4424(E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section 670.

   Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

2. **Waivers for Stream Setback Standards**: As allowed under 24 V.S.A. §4414(8), a property owner may apply for a waiver of the stream setbacks requirements for existing undeveloped lots. Waivers for Special Flood Hazard Area provisions are not allowed. Waiver applications are subject to conditional use review by the Development Review Board, and the additional provisions and standards apply.

   a. **Review Criteria**: The Development Review Board will review all stream setback waiver applications based upon the following standards:

      i. The parcel associated with the waiver request was legally in existence prior to September 23, 2014;
      ii. The parcel associated with the waiver request is not currently developed, and a waiver is necessary to resolve a practical difficulty in developing the property and allows reasonable use of the property;
      iii. Granting a waiver will not result in an unsafe condition of the lot or to the public.
      iv. The reduction of the stream setback will not adversely impact the use and enjoyment of adjacent parcels and the application complies with all other dimensional standards for the zoning district in which it is located;
      v. The reduction of the stream setback standard is the minimum required in order to facilitate the construction of a primary structure on the legally existing parcel.

   b. **Decisions & Conditions**: The Development Review Board shall make its decision on the request for waiver by applying the facts presented both in the application and at the public hearing to the criteria listed herein. In approving a waiver request, the Development Review Board shall determine and may impose conditions to ensure that the waiver is the minimum required to afford relief and represents the least deviation possible from the dimensional requirements. These conditions may include, but need not be limited to, the following:

      i. Limiting the size of the structure;
      ii. Reducing the waiver requested to ensure that the waiver represents the minimum waiver that will afford relief and will represent the least deviation possible from the zoning bylaw;

c. **Limitations of Waiver Approval**: Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.

G. Nonconforming Structures and Uses

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

1. The proposed development is in compliance with all the Development Standards in Section 660 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

SECTION 660 - DEVELOPMENT STANDARDS

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence. The ZA and the DRB will refer to the most current FEMA guidance documents[1] to help in determining how to interpret these Flood Hazard Regulations in accordance with NFIP requirements.

A. Special Flood Hazard Area

1. *All development* shall be:

a. Reasonably safe from flooding;
b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
c. Constructed with materials resistant to flood damage;
d. Constructed by methods and practices that minimize flood damage;
e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

[1] See FEMA Guidance Documents, most of which are available at: https://www.fema.gov/floodplain-management/floodplain-management-publications; http://www.fema.gov/media-library/assets/documents/18562?id=4160; and https://www.fema.gov/media-library/resources-documents/collections/4.

f. Adequately drained to reduce exposure to flood hazards;
g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

2. In Zones A, AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

3. *Structures, including manufactured homes, to be constructed, placed or substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation; this must be documented, in as-built condition, with a FEMA Elevation Certificate. Regardless of the substantial improvement determination, all additions (i.e. expansions of building footprint) shall meet these requirements.

4. *Non-residential structures to be constructed or substantially improved* shall:

   a. Meet the standards in Section 660 (A)(3); or,
   b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood proofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

5. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.

6. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall

   a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,

b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7. *Recreational vehicles* must be fully licensed and ready for highway use.

8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 660 (A)(6) above.

9. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.

10. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.

12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;

13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

14. New *subdivision developments*, planned unit developments, or manufactured home parks of more than 5 acres or 50 lots, whichever is less, shall:
    a. Include base flood elevation data;
    b. Minimize flood damage within the flood-prone area;
    c. Provide adequate drainage to reduce exposure to flood hazards;
    d. Locate and construct utilities and facilities, such as sewer, gas, electrical, and water systems, so as to minimize or eliminate flood damage; and,
    e. Be accessible by dry land access outside of the special flood hazard area.

15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

B. Floodway Areas

1. New fill and new structures in the floodway are prohibited.

2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited within the floodway.

3. Bank stabilization, channel management, public utility and bridge, culvert and road projects in the floodway are subject to conditional use approval as specified in Section 650, and must have hydrologic and hydraulic analyses performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:

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

4. Improvements to existing structures shall meet all applicable standards under Section 660 (A) and are subject to conditional use approval as specified in Section 650. Additions to existing structures that increase the building footprint area shall not be permitted until a Conditional Letter of Map Revision (CLOMR) is issued by FEMA.

5. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. Local Flood Hazard Area

1. In order to regulate the potential flood and erosion hazards in unmapped areas near streams and to minimize destabilization of streambanks, no structures, junkyards or storage facilities are allowed within 15 feet of the top of bank on streams as specified in Section 640 (A)(2).

2. Nonconformities are subject to Sections 261, 262 and 263 of the Zoning Bylaws. In addition to those standards, the following shall apply to nonconformities within the LFHA:

    a. Additions to nonconforming structures shall not increase the degree of nonconformance.
    b. Accessory structures may be located within 15 feet of the existing nonconforming primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
    c. A nonconforming structure that is unintentionally destroyed by fire, disaster or other unintentional cause may be reconstructed in place only in circumstances when the structure cannot be relocated to be a minimum of 15 feet from the top of bank.

3. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties;

SECTION 670 - ADMINISTRATION

A. Application Submission Requirements

1. Applications for development shall include:

   a. Where applicable, a site plan that depicts the proposed development, all water bodies, stream setbacks, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
   b. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

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

C. Decisions

The DRB shall consider comments from the NFIP Coordinator at ANR in reaching a decision on the application. The DRB may recess the proceedings on any application pending submission of additional information.

D. Records

The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest

floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area

3. All flood proofing and other certifications required under this regulation; and,
4. All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

SECTION 680 - CERTIFICATE OF OCCUPANCY

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

SECTION 690 - ENFORCEMENT AND PENALTIES

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

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

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

SECTION 691 - FLOOD HAZARD DEFINITIONS

For the purposes of these Regulations, meanings for the following words and phrases shall be as defined below. All other words shall retain their dictionary meaning unless such meanings run counter to the purposes and objectives of the Village of Ludlow's bylaws or Municipal Development Plan. The definitions of terms defined in Part 59.1, Subchapter A of Title 44 of the Code of Federal Regulations as well as §4303 of V.S.A. Title 24, Chapter 117, and not otherwise defined herein are made a part of these Regulations.

"Accessory Structure" means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

"Area of Special Flood Hazard" is synonymous in meaning with the phrase "special flood hazard area" for the purposes of these regulations.

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

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

"Basement" is any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides. (see definition of "Lowest Floor" and Sections 660 (5) and (15))

"BFE" see Base Flood Elevation

"Common plan of development" is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

"Critical facilities" include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

"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.

"Elevated building" is a building that has no basement and has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings or columns.

"Erosion hazard" see fluvial erosion and fluvial erosion hazard zone.

"Fill" means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

"FIRM" see Flood Insurance Rate Map

"Flood" means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

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

"Flood Insurance Study" means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

"Flood hazard area" *see "Special Flood Hazard Area".*

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood").

"Floodplain management" the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" 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 Special Flood Hazard Areas and floodways may be shown on a separate map panels.

"Floodway, Regulatory in Village of Ludlow" 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.

"Fluvial erosion" means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

"Fluvial erosion hazard zone" includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphically stable channel, and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

"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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

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

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

"Local Flood Hazard Area (or LFHA)" includes the land areas within 15 feet of streams as measured perpendicular to the top of bank, located outside of the SFHA, as shown on the LFHA Overlay District Map. (The land areas depicted on this Map are illustrative of the LFHA, as they are mapped based on stream centerlines, not top of bank. On-the-ground measurements shall be used for boundary determinations.)

"Manufactured home (or Mobile home)" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"New construction" for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

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

"Public outdoor recreational facilities" outdoor recreation facilities that are open to the general public, such as bicycle paths, hiking trails and ball fields.

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

"River" means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow and as shown on the LFHA Overlay District Map. "River" does not mean constructed drainage ways, including water bars, swales, and roadside ditches.

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

"Start of construction" for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The "start of construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing,

piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

"Stream" (see River)

"Stream Setback" see Local Flood Hazard Area

"Structure" means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

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

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

"Top of bank" refers to the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage (see Figure 1).

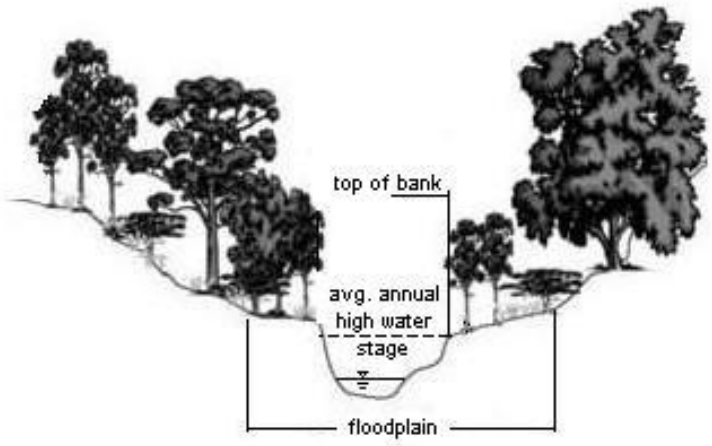

Figure 1: Top of Bank Illustration

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

SECTION 692 - ADOPTION; EFFECTIVE DATES OF REGULATIONS

These Regulations were adopted by the Trustees in accordance with 24 V.S.A. §4442. These Flood Hazard Area Regulations hereby amend and supersede Article 6 of the *Village of Ludlow, Vermont Zoning and Flood Hazard Regulations*. These Regulations are effective 21 days after their adoption by a majority of the legislative body.

ARTICLE 7: DEFINITIONS

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "lot" includes "plot;" the word "building" includes "structure;" the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied;" "person" includes individual, partnership, association, corporation, company, or organization. Any doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Development Review Board.

ADMINISTRATIVE OFFICER: is the person appointed to administer these Regulations, as provided for in section 4448 (a) of the Act. The Administrative Officer (AO) is also known as the Zoning Administrator (ZA).

ACCESSORY AGRICULTURAL USES: Customary on-farm uses not requiring a permit that are directly related and subordinate to the agricultural operations. Such activities need not be subordinate to the agricultural operation in terms of revenue, but shall be subordinate in overall land use (e.g., land area, structures utilized). Including, but not limited to: farm tours, trails for non-motorized recreation, composting, u-pick operations, product tasting, retail sales of products produced on the farm (including products that are produced and then processed on the farm, for example, livestock), retail sales of a limited number of agricultural products not produced on the farm as long as such sales are clearly subordinate to retail sales of on-farm products.

ACCESSORY DWELLING UNIT: (A) In accordance with the Act [4412(E)] a unit that is located within or appurtenant to a single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The *property* has sufficient wastewater capacity.

(ii) The *unit* does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(iii) *Applicable* setback, coverage, and parking requirements specified in the bylaws are met.

ACCESSORY STRUCTURE: means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

ACCESSORY USE OR BUILDING: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot, but not including home occupations.

ACT, The: Refers to the "Vermont Municipal and Regional Planning and Development Act".

ADULT BOOKSTORES/ENTERTAINMENT: An establishment that, as its primary business, imports, sells, lends, circulates, distributes, or exhibits a book, magazine, print, picture, movie, or videotape which contains sexually explicit materials either by print, pictures, figures, or description. This will include an establishment which gives or presents a show or entertainment containing sexually explicit activities.

AFFORDABLE HOUSING: (A) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.
(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

AFFORDABLE HOUSING DEVELOPMENT: means a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

AGRICULTURAL (FARM) STRUCTURE: A Structure meeting the criteria outlined in 24 VSA 4413 (d) (1) Agricultural Farm Structures do not need a permit. The applicant must provide to the Zoning Administrator a notification of intent to build a qualified agricultural structure by submitting a plot plan showing property lines, all structures on the lot, and the setbacks and dimensions.

AGRICULTURAL (FARM) STRUCTURE NOTIFICATION: The submission by the farm property owner of a plot plan showing property lines, all structures on the lot, and the setbacks and dimensions of the proposed structures. [See 24 VSA 4413(d)(2)]

AGRICULTURAL USE: Land or structures used for the growing or harvesting of crops; raising of livestock; operation of orchards, including maple sugar orchards; the sale of agricultural produce and forest products on the premises where raised; the processing or storage of products raised on the premises, as defined by the Commissioner of Agriculture, Food and

Markets and the use of agricultural structures and the storage of agricultural equipment incidental to the above. Includes Forest Management. [See 24 VSA 4413(d)].

AIRCRAFT: Any machine or device, such as an airplane, helicopter, glider, or ultra-light, that is capable of atmospheric flight. For the purposes of Section 590, aircraft does not include radio-controlled hobby aircraft, hot air balloons, and hang gliders.

AIRCRAFT LANDING FACILITY: Any facility designed and designated for the safe operation of aircraft, including take-offs and landings. For the purposes of Section 590, aircraft landing facilities do not include the operation of sea planes on water bodies, including related on-water docking facilities for sea planes.

ALTERATION: Structural changes, rearrangement, change of location or addition to a building, other than repairs or maintenance (e.g.: roof covering replacement, window replacement, and painting).

ANIMAL CARE/VETERINARIAN: Any facility which provides medical care to animals which may include facilities for keeping animals overnight as part of veterinary care.

AQUIFER: A geologic formation beneath the surface of the earth that stores water.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

AUTO SERVICE STATION: An establishment at which motor vehicles are serviced, which may or may not include fuel sales.

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

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

BASEMENT: is any area of the building, including any sunken room or sunken portion of a

room, having its floor below ground level (subgrade) on all sides. (see definition of "Lowest Floor" and Sections 660 (5) and (15))

BFE: see Base Flood Elevation.

BED AND BREAKFAST: An owner occupied home, in which the owner rents guest rooms and serves breakfast only to those guests as part of the room rent.

BEDROOM: Means:

(A) Any room in a residential structure that is at least 80 square feet in area, that is susceptible to present or future use as a private sleeping area, and that has at least:
  (i) One window;
  (ii) One closet; and
  (iii) One interior method of entry and exit, excluding closets and bathrooms, allowing the room to be closed off from the remainder of the residence for privacy; or

(B) Any room within a building or structure that actually serves primarily as sleeping quarters.

BOARDING HOUSE/ROOMING HOUSE: Buildings in which rooms are rented, with some or all meals provided, to three (3) or more persons. A boarding house shall have no more than eight (8) sleeping rooms for rent. *See Lodging House.*

BOCA STANDARDS: Construction standards established by the Building Officials and Code Administrators (BOCA) International Building Code.

BROWNFIELDS: Abandoned, idled or underutilized industrial or commercial facilities or property where expansion or redevelopment is complicated by real or perceived environmental contamination.

BUILDING: A walled or roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, including a building in the course of construction, alteration, or repair, and a manufactured (mobile) home on a foundation. However, one small, single-story outbuilding no larger than 144 square feet, which is not placed on a permanent footings or foundations, and which is used solely for residential purposes but not intended or used for human habitation, and which meets the setback requirements for the district in which it is located, shall not be considered a building and is thus exempt from any permitting requirements. Exemption does not apply within the Flood Hazard Area.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof on flat or mansard roofs, and the mean height between eaves and ridges of other roofs per BOCA Standards.

BUILDING FRONT YARD SET BACK: The distance from a structure to the centerline of a public right-of-way (see each district for requirements).

BUSINESS FLAG: a fabric flag of 15 square feet or less in size that is attached to a building with a pole with a pre-printed message (i.e. open, sale, welcome or grand opening).

BUSINESS OFFICE: An office from which a commercial or industrial enterprise is operated. (Also see OFFICE)

BYLAWS: means municipal regulations applicable to land development adopted under the authority of chapter 117.

CAMPER TRAILER: Includes any vehicle used as sleeping or camping or living quarters, mounted on wheels or a camper body usually mounted on a truck, and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, boats or as an office.

CAMPGROUND: Land on which are located one or more cabins, trailers, shelters, houseboats or other accommodations suitable for seasonal or temporary living purposes.

CAR WASH: A retail establishment for self-service or attendant operated washing of motor vehicles and travel trailers.

CERTIFICATE OF OCCUPANCY: A certificate of occupancy is evidence that the building complies with the plans and specifications that have been submitted to, and approved by, the local authority.

CHANGE OF USE: Any change of use from one category of use to another (e.g. residential to commercial, etc.), or single family to two-family/multi-family use. The Zoning Administrator may act upon an application for a change from retail to retail, as long as they remain in the same category of usage.

CLINIC: An office building used by members of the medical or dental profession for the diagnosis and outpatient treatment of human ailments.

COMMERICAL ACREAGE: Non-residential land used for revenue generating enterprises.

COMMON ACCESSORY USE LAND: A parcel or parcels of land or an area of water, or a combination of both, within the Common Land of a development site, designed and intended for the use and enjoyment of the owners, occupants, and guests of PUD. Such land shall include all accessory buildings, access roads, utility easements, parking areas, sidewalks, swimming pools, playgrounds, tennis courts, club houses, and other recreational facilities.

COMMON LAND: Land owned and for the use and enjoyment of the association of a planned development.

COMMON OPEN SPACE: Land not encumbered by any substantial structure which is (as of the date development began) in its natural state. The land may be developed for trails for

walking, riding, and jogging and picnic areas. The developer may allow the common open space to be used by the public at large by a grant of easement to the Village, if accepted by the Village.

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

COMMUNITY CENTER: Includes public or private meeting hall, place of assembly, museum, library, or church, not operated primarily for profit.

CONDITIONAL USES: These uses may be allowed only by approval of the Development Review Board.

CONDOMINIUM: Single or multi-unit dwelling or dwellings, including detached, semi-detached, or multistory structures, or any combination thereof, each of whose residents (unit owners) enjoys exclusive ownership of his individual apartment or unit while retaining an undivided interest, as a tenant in common in the common, facilities and areas of the condominium property.

CONDOMINIUM ASSOCIATION: The community association which administers and maintains the common property, and the elements, of a condominium.

CONFERENCE CENTER: A building or set of buildings used for the purposes of group meetings, seminars, professional workshops, and related business or organizational gatherings, of large numbers of persons.

CONFORMANCE WITH PLAN: Means a proposed implementation tool, including a bylaw or bylaw amendment that is in accord with the municipal plan in effect at the time of adoption, when the bylaw or bylaw amendment includes all the following:
(A) Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan.
(B) Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan.
(C) Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.

CONVALESCENT HOME: See HEALTH CARE FACILITY

COVERAGE: That percentage of the lot area covered by the footprint of the building area.

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

DAY CARE: Means care in lieu of parental care given for part of the twenty-four (24) hour day

to children under six (6) years of age away from their homes, but does not include child care furnished in places of worship during religious services.

DAY CARE CENTER: Means any premises operated for profit in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the operator.

DELICATESSAN: A retail establishment where food is prepared and sold for consumption off site.

DENSITY: The number of dwelling units allowed per lot.

DEVELOPMENT: See LAND DEVELOPMENT

DEVELOPMENT: For the purposes of the Flood Hazard Regulations in Article 6, 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.

DOCK: Structure providing moorings for boats.

DRIVE-IN/DRIVE-THROUGH USE: An establishment which by design, physical facilities, service (such as bank), or by packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicle.

DWELLING UNIT: One or more rooms designed as a separate living quarters with cooking, sleeping, and sanitary facilities provided within the dwelling unit. The term "dwelling unit" shall not include the rooms in a structure that is designed for transient use. Each dwelling unit shall constitute a separate unit for purposes calculating the Lot Area Minimum required in the zoning district.

DWELLING, SINGLE-FAMILY: means a detached building consisting of one dwelling unit.

DWELLING, TWO-FAMILY: is a detached building consisting of two dwelling units.

DWELLING, MULTIPLE-FAMILY: A detached building containing three or more dwelling units.

DWELLING, SEASONAL: A residential building used for casual and intermittent occupancy such as, but not limited to, a second home, vacation home, summer cottage, cabin, mobile home, or similar dwelling. A seasonal dwelling shall not be the principal place of residence of the occupant.

ELEVATED BUILDING: Is a building that has no basement and has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings or columns.

EROSION HAZARD: see FLUVIAL EROSION and FLUVIAL EROSION HAZARD ZONE.

ESSENTIAL SERVICE: Underground or overhead gas, communication, electric, steam, water or sewer collection, distribution or transmission systems maintained by public utilities or municipal or other governmental agencies, including the equipment and accessory structures customarily associated with such systems, as well as public rights-of-way and associated roads, bridges, and culverts (except in the flood area).

EXISTING SMALL LOT: See Pre-Existing Small Lot.

FARM STRUCTURE: A building for housing livestock, raising horticultural/agronomic plants, or for carrying out other practices associated with agriculture or farming practices, including a silo, but excluding a dwelling for human habitation.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The federal agency under which the National Flood Insurance Program (NFIP) is administered.

FEDERAL INSURANCE ADMINISTRATION (FIA): The federal entity within FEMA that directly administers the National Flood Insurance Program (NFIP).

Fill: Means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FIRM: see FLOOD INSURANCE RATE MAP.

FLOOD: means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD HAZARD AREA: see SPECIAL FLOOD HAZARD AREA.

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

FLOOD INSURANCE STUDY: Means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination,

evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

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

FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

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

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

FLOODWAY, REGULATORY IN VILLAGE OF LUDLOW: 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.

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

FLUVIAL EROSION: Means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

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

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

FLUSH MOUNTED SIGN: see SIGN, FLUSH-MOUNTED.

FREE STANDING SIGN: see SIGN, FREE-STANDING.

FRAGILE AREA: An area of land or water which has unusual or significant features of scientific, ecological, or educational interest. These areas of natural ecosystem are vulnerable and could be destroyed, severely altered, or irreversibly changed by man- made development or pre-development activities.

FRONT YARD: An open space between the buildings and the street, extending the full width of the lot or, in the case of a corner lot, extending along all streets.

FUNERAL HOME: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

GAS STATION: An establishment at which retail vehicle fuel sales are conducted.

GOVERNMENT RECREATION AREA: A Town or Village Recreation Area that may be financed by Town, Village, State or Federal Funds, but not operated as a private enterprise.

GRADE, FINISHED: Completed surfaces of grounds, lawns, walks, paved areas and roads brought to grades as shown on plans related thereto.

GROUP HOMES: A group home is defined as a state licensed residential care home serving not more than 8 persons who have a handicap or disability as defined in 9 V.S.A. §4501. In accordance with the Act [4412(1)], a group home shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another group home.

HAZARD AREA: means land subject to landslides, soil erosion, earthquakes, water supply contamination, or other natural or human-made hazards as identified within a "local mitigation plan" in conformance with and approved pursuant to the provisions of 44 C.F.R. sections 201.6.

HEALTH CARE FACILITY: Includes sanatorium, clinic, rest home, nursing home, convalescent home, home for the aged, and other places for the diagnosis and treatment of human ailments, except professional office.

HISTORIC STRUCTURE: For the purposes of the Flood Hazard Regulations in Article 6, historic structures mean any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

HOME CHILD CARE: (A) In accordance with the Act [§4412(5)], a state registered or licensed child care home serving six or fewer children on a full time basis and up to four additional children on a part time basis, which is conducted within a single-family dwelling by a

resident of that dwelling, shall be considered a permitted use of the single family residence. No zoning permit is required for home child care providing it meets the requirements of this section.

HOME OCCUPATION: [4412(4)] Any nonresidential use conducted entirely within a primary residential dwelling or outbuilding and carried on wholly by members of the family living on the premises, with the exception of one part-time, non-family member employee.

INDOOR RECREATIONAL USES: Those types of uses commonly considered recreational in nature or are related to improving physical fitness, that may occur inside of a building or enclosure including but not limited to swimming and water activities, racket sports, weight training, aerobic training, skating.

INN: A commercial facility for the housing of transients, and which may offer meal service.

INTERESTED PERSON: As defined by §4465 of Title 24, an interested person is one of the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
3. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
4. Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
5. Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

JUNKYARD: Land or building used for the collection, storage, and/or sale of waste paper, rags, scrap metal, or discarded material, or for the collection, wrecking, dismantling, storage, salvaging, and/or sale of machinery parts or vehicles not in running condition. See Village Junkyard Ordinance for additional restrictions.

KITCHEN FACILITIES: Means the common plumbing fixtures and appliances normally expected in the food preparation area of a living unit. The presence of a sink, a refrigerator, and

cooking facilities would meet this definition. Cooking facilities include, but are not limited to stoves, built-in ovens, counter top ovens, and microwave ovens.

LAND DEVELOPMENT: The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; or of any mining, excavation or landfill; or any change in the use of any building or other structure, or land, or extension of use of land. Note: See "Structure."

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

LEGISLATIVE BODY: means the Board of Selectmen of the Town of Ludlow in the case of a town, the Board of Trustees of the Village of Ludlow in the case of the village.

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

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

LOCAL FLOOD HAZARD AREA (OR LFHA): Includes the land areas within 15 feet of streams as measured perpendicular to the top of bank, located outside of the SFHA, as shown on the LFHA Overlay District Map. (The land areas depicted on this Map are illustrative of the LFHA, as they are mapped based on stream centerlines, not top of bank. On-the-ground measurements shall be used for boundary determinations.)

LIBRARY: See COMMUNITY CENTER.

LIGHT INDUSTRY: The assembly, manufacture, processing, packaging, or other industrial operations conducted in such a manner that all resulting cinders, dust, electrical interference, fumes, gas, odors, smoke, and vapor are effectively confined to the premises, or disposed of so as to avoid any air pollution, and conducted in such a manner that the noise level at the property line will not exceed eighty (70) decibels, and objectionable flashing lights and vibrations will not occur.

LOADING SPACE: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking space.

LOCK-OUT ROOM: A bedroom with a bath and its own separate entrance, and which can be locked-off from a dwelling unit and separately rented. Each dwelling unit may contain no more than one lock-out room.

LODGING HOUSE: Is a building in which the rooms are rented, without meals, to three (3) or more persons. A lodging house shall have no more than eight (8) sleeping rooms for rent. *See Boarding House/Rooming House*

LOT: Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may be determined by the Development Review Board to be adequate for the issuance of a zoning permit.

LOT DEPTH: The mean horizontal distance from the street line of the lot, to its opposite rear line, measured at the right angles to the street line.

LOT FRONTAGE: Distance measured along the width of a lot at the street line.

LOT LINE: The established division line between lots, or between a lot and the street right-of-way.

LOWEST FLOOR: 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 area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 610.

MANUFACTURING: Any process whereby the nature, size, or shapes of articles or raw materials are changed or articles are assembled and/or packaged. Processing of produce where it is raised shall not be considered manufacturing.

MANUFACTURED HOME: (also see Mobile Home) A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term “manufactured home” (or “mobile home”) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

MEAN SEA LEVEL: Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

MINIATURE GOLF: a novelty golf game played with a putter on a miniature course usually

having tunnels, bridges, sharp corners, and obstacles.

MOBILE HOME: (also see Manufactured Home) A prefabricated dwelling unit which:
(1) Is designed for long term and continuous residential occupancy;
(2) Is designed to be moved on wheels, as a whole or in sections;
(3) Upon arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on supports; or
(4) Contains the same water supply and waste water disposal as immovable housing.

MOBILE HOME PARK: A parcel of land under single or common ownership or control, which contains, or is designed, laid out, or adapted to accommodate three (3) or more mobile homes.

MOTEL: A building containing rooms that are rented as a series of sleeping units for vehicle transients, each sleeping unit consisting of at least a bedroom and bathroom.

MULTIPLE DWELLING UNIT BUILDING: A structure containing two or more residential dwelling units, including detached, semi-detached, or multistory structures, or any combination thereof. Unit ownership within a Multiple Dwelling Unit Building may be either whole ownership, fractional ownership or any other form of common interest ownership. Some or all of a unit in a Multiple Dwelling Unit Building may be rented to transients.

MULTIPLE-FAMILY DWELLING: see Dwelling, Multiple-Family.

MUSEUM: See COMMUNITY CENTER.

NET-METERED: home-based renewable energy systems that send excess power not immediately needed in the home directly back into the electrical grid while crediting the homeowner for the excess power. Net-metered renewable energy systems are governed by the Public Service Board (PSB). Such systems that are not reviewed by the PSB and are not explicitly excluded under the Act are governed by the municipality under applicable zoning bylaws.

NEW CONSTRUCTION: Means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

NONCONFORMING LOTS, OR PARCELS: Means lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

NONCOMFORMING STRUCTURE: Means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly

authorized as a result of error by the administrative officer.

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

NON-RESIDENTIAL: For the purposes of the Flood Hazard Regulations, this term includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

NORMAL MEAN WATER MARK: Acting under the rule-making authority given in the Vermont Statutes Annotated, the Vermont Water Resources Board shall determine normal mean water marks for those waters of the State for which the State has the role of trustee.

NORMAL WATER FACILITIES: Any docks, wharves, floats, or boat houses.

NURSERY: Shall be any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

NURSING HOME: See HEALTH CARE FACILITY.

OFF PREMISE SIGN: see SIGN, OFF PREMISE.

OFFICE: A room or building designed or used in which a person transacts his business or carries on his stated occupation.

ON PREMISE SIGN: see SIGN, ON PREMISE.

OPEN SPACE: Land which is set aside from development and designated to remain in its natural state, open (woodland, meadowland, wetland, etc.), for agricultural uses, or for active or passive outdoor recreation uses.

PARKING AREA: Is defined as an off-street area containing one or more parking spaces, with passageways and driveways appurtenant to. In general, there shall be an average of at least 350 square feet of parking area per parking space to insure adequate aisle widths.

PARKING SPACE: Off-street space used for the temporary location of one (1) registered motor vehicle, which is at least nine (9) feet wide and twenty-two (22) feet long, not including an access driveway, and having direct access to a street or approved right-of- way.

PERSONAL SERVICES: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

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

PLAZA: A building or development, which sits back from the street on which it fronts, so that signs on the individual business establishments are not readily visible to persons passing by in their motor vehicles, and which is designed to contain and contains three (3) or more business establishments, each business being under separate and unaffiliated ownership.

POSTER: A temporary, on premise or off premise, sign; printed, lettered, or drawn on non-permanent cardboard or paper, advertising a specific event or occurrence at a particular time and place.

PREMISE: The lot, building, or set of related buildings comprising the location of one or more businesses or other ventures.

PRINCIPLE USE: The primary purpose or function that a lot serves or is intended to serve.

PRIVATE CLUB: A club restricted to members and their guests.

PROFESSIONAL RESIDENCE-OFFICE: Primary residence in which the occupant has a professional office, including, but not limited to, that of an architect, accountant, dentist, doctor of medicine, land surveyor, real estate or insurance broker, etc., which is clearly secondary to the dwelling use for living purposes, and does not change the residential character thereof.

PROFESSIONAL SERVICE: An office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, that of an architect, accountant/ financial services, dentist, doctor of medicine, lawyer, land surveyor, real estate or insurance broker.

PROJECTING SIGN: see SIGN, PROJECTING.

PUBLIC NOTICE: Means the form of notice prescribed by sections 4444, 4449, or 4464 of this title, as the context requires.

PUBLIC OUTDOOR RECREATIONAL FACILITIES: Outdoor recreation facilities that is open to the general public, such as bicycle paths, hiking trails and ball fields.

REAL ESTATE OFFICE: A business office engaged in the conduct of real estate sales, rentals, and related management activities.

REAR YARD: An open space between the building and the rear lot line, extending the full width of the lot.

RECREATIONAL USE: For the purposes of these Regulations, this will include all those activities commonly considered to be recreational in nature, and will also include as examples, but not limited to, the following: skiing, golf courses, horseback riding and polo fields, hunting and fishing, picnic areas, playing fields (such as baseball, soccer, etc.), shooting or archery ranges, snowmobile trails, swimming areas, tennis courts, walking and/or nature trails. This will also include buildings which are accessory to the above activities.

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

RESIDENTIAL SIGNS: See SIGNS, RESIDENTIAL.

REST HOME: See HEALTH CARE FACILITY.

RESTAURANT: An establishment where food and drink is prepared served and consumed primarily within the principal building.

RETAIL USE: Includes enclosed restaurant, café, shop and store for the sale of retail goods, personal service shop and department store; and shall exclude drive-up service, free- standing retail stand, gasoline service and motor vehicle repair, new and used car sales and service, trailer and mobile home sales and service.

RIGHT OF WAY:

1. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; or
2. Generally the right of one to pass over the property of another.

RIVER: Means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow and as shown on the LFHA Overlay District Map. "River" does not mean constructed drainage ways, including water bars, swales, and roadside ditches.

SANATORIUM: See HEALTH CARE FACILITY.

SAND AND GRAVEL PIT: An area that is used for the extraction of soil, sand, gravel, stone or other materials for transport off the parcel from which it is extracted. These activities usually involve heavy equipment and may cause high levels of noise and dust.

SATELLITE DISH ANTENNA: For the purposes of these Regulations, and in the accordance with Title 24, Chapter 117, of the Vermont Statutes Annotated, a satellite dish antenna more than

two (2) feet in diameter shall be considered a structure.

SIGN: Any structure, wall display, device, or representation which is designed, or used to advertise, or calls attention or directs a person to a business, association, profession, commodity product, institution, service, entertainment, person, place or thing, or activity of any kind, and is visible or audible from a highway or other right-of-way open to the public. It does not include the flag of any nation or state on a single pole.

SIGN, FLUSH-MOUNTED: A sign attached to and mounted parallel to the face of a building or structure, or where architectural features (covered entryways, awnings, or other building elements except where otherwise prohibited) are clearly designed to accommodate a sign mounted parallel to the building face.

SIGN, FREE-STANDING: A sign supported by one or more poles, columns, or supports placed in or on the ground and not attached to any building or structure.

SIGN, GROUP (Directory Sign): One sign that lists the multiple uses within a building or within a group of buildings on a tract of land (e.g. one sign at the entrance of a shopping plaza that lists all businesses/uses within that plaza).

SIGN, OFF PREMISE: A sign which directs attention to a business, profession, commodity, service, or entertainment that is not carried on, sold, or offered on the same premises.

SIGN, ON PREMISE: A sign which directs attention to a business, profession, commodity, service, or entertainment carried on, or sold, or offered on the same premises.

SIGN, PROJECTING: A sign attached to, and projecting away from, the face of a building or structure.

SIGNS, RESIDENTIAL: A sign, not more than one and one half (1 ½) square feet in area, for identification of the residents.

SIGN, SANDWICH BOARD (A-Frame Sign): A type of a portable sign that is not permanently attached to the ground or other permanent structure, and is intended for temporary use advertising a business during standard business hours only.

SIGN, SOFFIT: A sign hung from and within an overhang which is attached to a building or structure, and which covers a walkway serving that building or structure.

SIGN, WINDOW: Any sign affixed to the inside or outside of a window or door, or a sign placed within a building so as to be plainly visible and legible through a window or door.

SINGLE-FAMILY DWELLING: see Dwelling, Single-Family.

SPECIAL FLOOD HAZARD AREA: is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the

term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area". This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

STORAGE ENCLOSURE/BUILDING: An area or building for holding or safekeeping in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

STREAM: see RIVER.

STREAM SETBACK: see LOCAL FLOOD HAZARD AREA.

STRUCTURE: means an assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall, or fence. For the purposes of the Flood Hazard Regulations, structure means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

SUBSTANTIAL AMOUNT OF WORK: Completion of twenty-five (25) percent of the permitted project.

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

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

SWIMMING POOL: A water-filled structure, permanently constructed, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool having a depth of more than thirty-six (36) inches, designed, used and maintained for swimming and bathing.

TECHNICAL DEFICIENCY: Means a defect in a proposed plan or bylaw, or an amendment or repeal thereof, correction of which does not involve substantive change to the proposal, including corrections to grammar, spelling, and punctuation, as well as the numbering of sections.

THEATER: A building or part of a building devoted to showing moving pictures or stage productions on a paid admission basis.

TOP OF BANK: refers to the point along a stream bank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage (see Figure 1 in Section 691).

TOURIST HOME/PRIVATE SKI CLUB: An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.

TRANSFER STATION: Land used for the collection and temporary storage of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

TRANSITIONAL HOUSING: Transitional or supportive housing that does not meet the definition of a group home as defined in 24 V.S.A. §4412 and which individuals live for a short period while receiving physical, social or psychological therapy and counseling to assist them in overcoming physical, [social] or emotional problems.

TWO-FAMILY DWELLING: see Dwelling, Two-Family.

VETERINARY CLINIC/OFFICE: See ANIMAL HOSPITAL.

UPGRADING: The privilege of the property owner to improve the utility of his building, if it does not change the overall use or size of said building. Example: relocating doors or windows,

or replacing the siding of a building.

VIOLATION: Means the failure of a structure or other development to be fully compliant with this bylaw. For the purposes of the Flood Hazard Regulations, 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.

WATERFRONT SETBACK: The distance measured from the mean level to the nearest building, excluding normal waterfront facilities.

WETLANDS: Means those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.

WILDLIFE REFUGE: An area set aside for the conservation of plants, animals and general environment within. These are noncommercial areas usually without any structures on them. A single parking area and walking trials are characteristic of a wildlife refuge.

WINDOW SIGN: See SIGN, WINDOW.

WIRELESS COMMUNICATIONS FACILITY: Equipment for the distribution of wireless communications, such as cell phones, which may include towers, antennas, equipment shed(s) or housing(s), and electronic equipment.

YARD: Space on a lot not occupied with a building or structure. Porches and decks, whether enclosed or not enclosed, shall be considered as part of the main building and shall not project into a required yard. Minimum yard dimensions are the minimum perpendicular setback of a structure from a lot line.

Note: Any definition not covered in these Regulations shall be:

(1) Based on the definition found in the Act, if available, or

(2) If not found in *these* Regulations nor in the Act, interpreted by the Development Review Board, based on commonly-accepted usage, as required;

Otherwise, these definitions are *not* to be modified nor altered by the Administrative Officer or Development Review Board.