

Town of Sutton

**UNIFIED DEVELOPMENT BYLAWS
ADOPTED BY THE VOTERS OF
SUTTON, MARCH 7, 2017
AMENDED APRIL 26, 2018**

Unified Development Bylaw

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ARTICLE I: ENACTMENT AND INTENT

§ 101: Enactment

In accordance with 24 VSA, § 4401, there are hereby established development regulations for the Town of Sutton which are set forth in the text and map that constitutes these regulations. These regulations integrate the town's zoning and subdivision regulations, as well as the town's flood hazard development standards into a single set of regulations that shall be known and cited as the "Town of Sutton Unified Development Bylaw¹".

§ 102: Intent

It is the intent of these regulations to:

- A. Implement the Sutton Town Plan, to provide for orderly community growth, and to further the purposes established in 24 VSA, § 4302;
- B. Assure the comfort, convenience, safety, health, and welfare of the people as well as conformance with the various parts of the Sutton Town Plan;
- C. Support the continued viability of Sutton's working lands by balancing the needs of residential development with those of farming and forestry.
- D. Accommodate industrial and commercial uses that are of a scale appropriate to a rural community and that make the most efficient use of existing infrastructure;
- E. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- F. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public well-being, does not impair stream equilibrium, floodplain services, or the stream corridor;
- G. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the Town Plan; and make the Town of Sutton, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

¹ 24 V.S.A. §4419 allows municipalities to integrate separate land use regulations into a consolidated review and permitting process in order to provide for "an orderly permitting process for all applicable regulations". At a minimum, unified development bylaws shall consolidate zoning and subdivision bylaws, but they may also integrate flood hazard regulations. As a result, this document has a single set of land use definitions, and a single administrative process delineated for all three regulations in Sutton.

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§ 103: Precedence of Bylaw

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

ARTICLE II: ZONING DISTRICTS & DISTRICT REGULATIONS

§ 201: Zoning Map and Districts

The zoning map officially entitled "Town of Sutton Zoning Map" is hereby adopted as part of this bylaw. The Town of Sutton Zoning Map shows a division of the Town into the following districts.

"VIL" Village District

"IND" Industrial District

"RES" Residential District

"SC" Scenic District

"WL" Working Lands District

§ 202: Copies of Zoning Maps

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be located in the office of the Town Clerk shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the town.

§ 203: District Boundaries

District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of district boundaries. When the Zoning Administrator cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Development Review Board and the appropriate state and federal officials shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

§ 204: District Objectives and Land Use Control

The following tables establish the objectives of each of the districts hereby established and the provisions of these regulations that apply respectively in each district. Any use designated as a "Permitted Use" in the table relating to a particular district may be commenced pursuant to § 206 of these regulations. Any use designated as a "Conditional Use" may be commenced pursuant to

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§ 207 of these regulations. Any use not designated by these regulations as a "Permitted Use" or "Conditional Use" shall be deemed to be prohibited.

§ 205: Application of District Regulations

The application of these regulations is subject to 24 VSA, Chapter 117.

Except as hereinafter provided, no division of a lot into two or more lots, nor any construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, nor any change in the use of any building or other structure, or land, or extension of use of land shall commence unless in conformity with the regulations herein specified for the district in which it is located.

TABLE 205.01: "VIL" Village District

Purpose

The purpose of the village District is to provide for residential and other compatible uses at a density consistent with the physical capability of the land and the availability of services. Uses and dimensional standards in this district are intended to protect the rural character of the community by encouraging more housing, as well as civic and commercial uses of a scale that is compatible with residential development, thereby maximizing use of the existing municipal water system and minimizing impacts to rural and agricultural land uses.

Permitted Uses

Accessory structure or use
Bed and Breakfast
Church
Dwelling, accessory
Dwelling, single family
Dwelling, two family
Essential service
Home occupation
Outdoor recreation
Lodging House
Public facility
School

Conditional Uses

Agriculture
Commercial accommodation
Commercial use
Dwelling, multi-family
Forestry
Home-based Industry
Health Clinic
Industrial, Class I
Integrated Agriculture

Minimum Lot Area and Dimensions Requirements

Lot area in square feet:.....20,000

Road frontage in feet:.....100

Setback from center of road: Equal to or between the existing principal building setbacks on adjacent lots on either side or if there are no principal buildings on one or both

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adjacent lots, then the next principal building within the block on the same side of the street as the subject property. All structures must be located outside of Town right-of-way unless otherwise approved by the Select Board

Setback from side lot lines in feet:.....10

Setback from rear lot line in feet:10

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TABLE 205.02: "IND" Industrial District

Purpose

The purpose of the Industrial District is to accommodate a variety of industrial uses that are compatible with Sutton's rural character and limited town services, while minimizing adverse impacts to residential, silvicultural, and agricultural uses. This district supports uses that can expand the town's tax base, while making use of highway and rail access, as well as availability of three-phase power.

Permitted Uses

Accessory Structure or use
Daycare Center
Dwelling, Accessory
Dwelling, single family
Dwelling, two family
Essential service
Home occupation
Lodging House
Personal Services

Conditional Uses

Campground
Commercial Accommodation
Commercial Use
Dwelling, multi-family
Extraction of earth resources
Home-based industry
Industry, Class I
Industry, Class II*
Integrated Agriculture
Mobile Home Park

Minimum Lot Area and Dimensions Requirements

Lot area in acres:1*
Road frontage in feet:.....200
Setback** from center of road:..... 50
Setback** from side lot lines in feet:.....25
Setback** from rear lot line in feet:25

* Class II Industrial Uses will require a minimum of two acres

**Setbacks may be required to be larger in order to meet industrial performance standards of § 408.

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TABLE 205.03: "RES" RESIDENTIAL DISTRICT

Purpose

The purpose of the Residential District is to provide for neat and orderly development at a density consistent with the physical capability of the land, the availability of services, and the need to provide sufficient opportunities for housing, balanced with non-residential uses that are appropriately sited, screened, and of a scale that is compatible with residential uses.

Permitted Uses

Accessory structure or use
Agriculture
Commercial accommodation
Church
Dwelling, accessory
Dwelling, single family
Dwelling, two family
Essential service
Forestry
Home occupation
Outdoor recreation
Public facility
School

Conditional Uses

Commercial Use
Dwelling, multi-family
Home-based Industry
Integrated Agriculture
Raising of livestock as accessory use

Minimum Lot Area and Dimensions Requirements

Lot area in acres:1
Road frontage in feet:.....150
Setback from center of road:.....75
Setback from side lot lines in feet:.....25
Setback from rear lot line in feet:25

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TABLE 205.04: "SCE" Scenic District

Purpose

The purpose of the Scenic District is to provide for limited residential, recreational, and other uses compatible development in areas that are rural in character with agriculture and forestry as their primary use. This area is generally served by adequate town roads and the soils and slopes are suitable for development at a moderate density. The main highway (U.S. Rte. 5A) serves as the gateway for the south end of Willoughby Lake and, as such, may be an appropriate location for siting services to tourists.

Permitted Use

Accessory structure or use
Agriculture
Commercial accommodation
Church
Dwelling, accessory
Dwelling, single family
Dwelling, two family
Essential service
Forestry
Home Occupation
Outdoor recreation
Public facility
Raising of livestock as accessory use

Conditional Uses

Campground
Commercial Use
Integrated Agriculture
Industrial, Class I
On-Farm Processing
Mobile Home Park

Minimum Lot Area and Dimensions Requirements

Lot area in acres:2
Road frontage in feet:.....300
Setback from center of road:.....75
Setback from side lot lines in feet:.....25
Setback from rear lot line in feet:25

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TABLE 205.05: "WL" Working Lands District

Purpose

To preserve Sutton's unfragmented tracts of land with agricultural and silvicultural value that can provide a sustainable natural resource-based economic return and contribute to the local economy. This district allows for some limited residential development, while stabilizing Sutton's remaining agricultural and silvicultural lands by protecting them from fragmentation that would impair their continued viability as working lands. The lands in this district have restricted access to public roads, are important for wildlife habitat, have one or more physical limitations to development, and include significant natural, recreational, agricultural, and scenic resources. Permitted structures are to remain appropriate to the current agricultural/rural landscape. Planned unit development based on the lot's overall yield is encouraged in this district in order to preserve and protect Sutton's working lands. All other forms of development shall be done in accordance with the density-based standards described below.

Permitted Use

Accessory structure or use
Agriculture
Dwelling, accessory
Dwelling, single family
Dwelling, two family
Forestry
Home Occupation
Outdoor recreation

Conditional Uses

Commercial Use
Forestry accessory use
Integrated agriculture
Home-based industry
Industrial, Class I
On-farm processing

Minimum Lot Area and Dimensions Requirements

Maximum density:

1 new lot, in addition to the existing lot, for every 10 acres of land in single and separate ownership

Minimum lot area in acres:	1
Road frontage* in feet:.....	200
Setback* from center of road:.....	75
Setback* from side lot lines in feet:.....	25
Setback* from rear lot line in feet:	25

New lots may be any size greater than one acre, however, the original lot must retain sufficient acreage to remain eligible for tax abatement programs, such as Current Use enrollment. Lots ineligible for Current Use enrollment may be developed in accordance with the maximum density of 1 new lot for every 10 acres of land in single and separate ownership.

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The remainder of land on the original tract to be permanently set aside from development shall be designated as such on the Final Plat in accordance with § 705 of these regulations.

Land to be transferred solely for agricultural or forestry purposes or for permanent conservation may be accomplished in any lot size, provided that such transfer does not result in any tract of land that is smaller than 25 acres.

*Frontage and setback requirements may be reduced per approval of the Development Review Board in order to minimize fragmentation of working lands.

Residential uses and wells shall be sited so as to minimize conflicts with adjoining agricultural operations. Buffer zones a minimum of 200 feet from residences and residential wells to the lot lines of agricultural operations may be required unless a smaller setback can be demonstrated to have no adverse impact.

Building envelopes on new lots shall be sited away from the most productive agricultural soils, or in such a manner that minimizes fragmentation of the original tract.

Driveways and private rights of way shall be located nearest the new lot(s) in order to minimize fragmentation of the original tract. The Development Review Board reserves the right to require a shared driveway or private right of way in order to minimize fragmentation of agricultural or silvicultural use on the original lot.

Density Averaging

Density averaging is intended to give developers the flexibility to design a subdivision that protects agricultural and silvicultural resources. Density averaging may also be used as a tool for owners of working lands to subdivide small lots for their progeny, to provide employee housing, or to sell while retaining ownership of much of the balance of their property. A developer may combine densities from two or more lots within the Working Lands District under single ownership in order to determine an average density. Density averaging may allow for a higher density concentrated in one area, provided that the overall density of the lots is not increased.

- Lands to be included in density averaging need not be contiguous, but they must be held in single ownership.
- All original non-contiguous lots must retain eligibility for tax abatement programs (such as Vermont Current Use program).
- All new lots shall be sited in accordance with the standards of these regulations in order to minimize fragmentation of working lands.

Density Averaging Example

A developer owns two lots. Lot A has 50 acres. Lot B has 27 acres.

Lot A: 5 new lots.

Lot B: 2 new lots.

Total: 7 new two-acre lots.

All seven lots are located on Lot A, leaving a minimum of 25 acres on Lot A and all 50 acres of Lot B undeveloped.

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- Lands on the parent tract(s) to be protected from subsequent development shall be designated as such on the Final Plat in accordance with §705 of this bylaw.

§ 206: Permitted Uses

Permitted uses are those uses that are allowed, provided the standards established by this bylaw are met. Unless a variance or other special action by the Development Review Board is required, the necessary permit may be issued by the Zoning Administrator. All uses other than single-family and two-family dwellings shall require Site Plan Approval from the Development Review Board before the Zoning Administrator can issue a permit.

§ 207: Site Plan Review and Approval

No zoning permit shall be issued by the Zoning Administrator for any use other than one- or two-family dwellings until the Development Review Board grants site development plan approval.

207.01 Submission of Site Development Plan Map and Supporting Data: The owner shall submit two sets of site plan maps and supporting data to the Development Review Board. The site plan map shall be drawn reasonably to scale, accompanied by a written narrative and include the following information:

- A. Proposed structure locations and land use areas;
- B. Roads, driveways, traffic circulation and access, parking and loading spaces;
- C. Landscaping plans, including site grading, landscape design and screening;
- D. Exterior lighting and the size, location, and design of signs;
- E. For any development that accesses a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.

207.02 Site Development Plan Review Procedure

- A. The Development Review Board shall conform to requirements of 24 VSA, § 4416 and §4464 before acting upon any application.
- B. In considering its action the Development Review Board shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of parking, traffic access and circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; the size, location, and design of signs; and other matters specified in the bylaws.

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- C. The Development Review Board shall review the site plan map and supporting data before approval or approval with stated conditions, or disapproval, is given, and taking into consideration the following objectives.
 - i. Maximum safety of vehicular circulation between the site and public roads.
 - ii. Adequacy of circulation, parking and loading facilities with particular attention to safety.
 - iii. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.
 - iv. The compatibility of exterior lighting and signs with the surrounding environment.

§ 208: Conditional Uses

- 208.01 Conditional uses are those uses that may be allowed by the Development Review Board as provided for in 24 VSA, § 4414(3) after public notice and hearing. In order for the permit to be granted the proposed use shall not adversely affect:
- 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 Town Plan;
 - C. Traffic on roads and highways in the vicinity;
 - D. By-laws then in effect.
 - E. Utilization of renewable energy resources.
- 208.02 Applications submitted to the Development Review Board shall be made on forms supplied by the Zoning Administrator and include a site plan that complies with the requirements of § 207.01 of this bylaw.
- 208.03 In addition, the proposed use must be found to be in conformance with the specific standards for the district in which it is located.
- 208.04 As a condition of approval, the Development Review Board may attach such additional reasonable conditions and safeguards as it deems necessary to implement the purposes of 24 VSA, Chapter 117 and these zoning regulations.
- 208.05 When an application requires both Conditional use approval under this section and Site Plan Review under § 207, the Conditional Use review shall be conducted first.
- 208.06 Following the close of the public hearing the Development Review Board shall make a decision to approve or disapprove the requested conditional use. If the application is approved, the decision shall be in writing and shall include findings of fact, conclusions of law, and appropriate and reasonable conditions.
- 208.07 Subsection 208.03 notwithstanding, the expansion of any existing building, or the construction of an accessory building in connection with any permitted use, which does

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not conform to the minimum front, side, or rear yard setbacks in § 205 may be treated as a conditional use and such construction shall not commence prior to the issuance of such a permit. Such a conditional use permit may be issued without the need for a variance but under no circumstances shall such a permit authorize a setback of less than 5 feet.

§ 209: Limitation of these Regulations

209.01 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:

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

209.02 Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subsection 208.01 for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

ARTICLE III: GENERAL PROVISIONS

The following provisions shall apply to all districts except where listed.

§ 301: Existing Small Lots

301.01 Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and was in existence on the effective date of this zoning bylaw may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to the minimum lot size requirements of this bylaw.

301.02 Development of an existing small lot shall be prohibited if such lot:

- A. is less than one-eighth acre in area; or
- B. has a width or depth dimension of less than 40 feet.

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- 301.03 If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the existing small lot shall be deemed merged with the contiguous lot. However, an existing small lot shall not be deemed merged and may be separately conveyed if all the following apply:
- A. The lots are conveyed in their preexisting, nonconforming configuration.
 - B. On the effective date of this bylaw, each lot was developed with a water supply and wastewater disposal system.
 - C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 - D. The deeds of conveyance create appropriate easements on the existing small lots being conveyed for the replacement of one or more wastewater systems, potable water systems, or both, in the event there is a failed system or failed supply as defined in 10 VSA chapter 64.

§ 302: Required Frontage on, or Access to, Public Roads or Public Waters

Land development may be permitted on lots which do not have frontage either on a public road or public waters, provided that access through a permanent easement or right-of-way has been approved by the Development Review Board in accordance with the following standards:

- A. The easement or right-of-way providing access to the landlocked parcel shall be at least 50 feet in width.
- B. The private right-of-way shall intersect the public right-of-way as nearly as possible at a 90 degree angle, but in no case less than 60 degrees.
- C. The grade of the private right-of-way shall not exceed 5% within 50 feet of the traveled portion of the public right-of-way.
- D. A 15 inch culvert shall be installed when deemed necessary by the road commissioner where the access meets the public road. When deemed necessary a larger culvert may be required. At least 12 inches of fill shall be placed over the culvert.
- E. 22When possible, all access drives shall be at least 150 feet from any intersection involving two or more public streets.
- F. Prior to the construction of a driveway, a public highway access permit shall be obtained as required by 19 VSA, § 1111(b). Such permit shall be issued by the Selectboard in the case of a Town road and from the Agency of Transportation in the case of a State road.

§ 303: 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 no more than fifty feet into the more restricted part, provided the lot has frontage on or approved access to a public road in the less restricted district.

§ 304: Lots Abutting More Than One Public Road

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Lots which abut on more than one public road shall provide the required frontage on at least one public road.

§ 305: Projections into Required Yards

All structures, whether attached to the principal structure or not and, whether open or enclosed including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard.

§ 306: Location of Driveways

All driveways are to be located at least seventy-five feet from a road line intersection for all uses.

§ 307: Abandonment of Structures

Within two years after work on an excavation has begun or within one year 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 normal grade by the owner.

§ 308: Off-Street Parking

308.01 Off street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is changed to another use or enlarged.

Minimum Off-Street Parking Space Requirements

Land Uses	Parking Requirements
Accessory use	None
Agricultural use	None
Church	1 per 3 seats
Commercial accommodation	1 per room
Commercial use	1 per employee + 1 per 250 s.f. of floor space
Dwelling, accessory	1 per dwelling unit
Dwelling, single-family, two family, multifamily	2 per dwelling unit
Essential service	1
Forestry	None
Home occupation	2, in addition to those required for the dwelling unit
Hospital	1.5 per employee
Manufacturing	1 per employee, + 10
Mobile home park	2 per dwelling unit
Outdoor recreation	Equal to average number of users on any given day
Public facility	1.5 per employee

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Raising of livestock as accessory use	None
School	1.5 per employee

308.02 Parking spaces shall measure 9 feet by 18 feet and shall be marked with paint unless the parking lot has a gravel surface.

308.03 To provide for the necessary access and maneuvering room within a parking lot, parking lots shall have a total area of 300 square feet per parking space.

§ 309: Reduction of Setbacks

Development Review Board may allow structures with setbacks less than those required by §§ 205.01 through 205.05 of this bylaw when the application for such structure is approved under the requirements of § 208, Conditional Uses. In addition to § 208, the Board shall take into consideration the following requirements:

- A. Setbacks approved by the Development Review Board shall not be less than the setbacks for the existing structures in the immediate vicinity of the property for which the reduced setbacks have been requested.
- B. In no case shall a required setback be reduced to less than 5 feet.

§ 310: Heights of Certain Structures

310.01 The height of antenna structures, wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation.

310.02 The maximum height of a structure, measured from the top of the foundation to the eaves, shall not exceed 25 feet, unless approved on appeal.

ARTICLE IV: SPECIFIC USE PROVISIONS

§ 401: Accessory Dwellings

In accordance with 24 V.S.A. §4412(1)(E), no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling located outside of the Special Flood Hazard Areas. 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:

401.01 The property has sufficient wastewater capacity.

401.02 The maximum habitable floor area for an accessory dwelling shall not exceed 50% of the primary dwelling.

B.

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- 401.03 Applicable setback, coverage, and parking requirements specified in this bylaw are met.
- 401.04 The accessory dwelling unit shall be located outside of flood hazard areas as defined in Article V of this bylaw.

§ 402: Agricultural Buildings

- 402.01 Nothing contained herein shall be construed to regulate accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10 VSA, §§ 1021(f) and 1259(f) and 6 VSA, § 4810.
- 402.02 Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Zoning Administrator of such intent prior to the erection of such structure.
- 402.03 Farm structures shall comply with setbacks approved by the Commissioner of agriculture, food and markets.

§ 403: Burned Buildings

No owner or occupant of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure. A time extension of one year may be granted for repair or rebuilding of a burned, collapsed, or destroyed structure.

§ 404: Fences

- 404.01 Any land owner may erect a fence on his or her own property with a permit. However, any fence that is erected within a public right-of-way is subject to removal by the Town of Sutton.
- 404.02 Fences shall be a minimum of twenty-five feet from the center of the road. Property line fences are to be decided between the neighbors.
- 404.03 Permit applications for fences to be erected along a property line are to be signed by the owners of properties involved.
- 404.04 Fences erected along property lines shall not be subject to setbacks.
- 404.05 Fences associated with farming as defined in 10 V.S.A. §6001(22) are considered farm structures and shall not require a permit.

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§ 405: Child Care Homes and Facilities

- 405.01 No permit shall be necessary for the owner of single family dwelling to operate a child care home within their home as long as they are not caring for more than 6 children.
- 405.02 A child care facility, a facility designed and operated for the care of more than 6 children, shall not be established prior to the issuance of a zoning permit. Prior to the issuance of such permit, such facilities shall be subject to site plan review under § 501 of this bylaw.

§ 406: Residential Care Homes and Group Homes

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

§ 407: Home Offices, Home Occupations, and Home-Based Industry

- 407.01 Home Offices: No zoning permit shall be required for a home office that is:
- A. Subordinate to a residential use
 - B. Located within a principal dwelling and occupies no more than 30% of the gross floor of the principal dwelling, or is located within an existing accessory structure;
 - C. Is carried out by a resident of that dwelling and no more than two non-residential full time equivalent employee, and
 - D. Involves no signs, public access or outdoor storage or displays.
- 407.02 Home Occupations: In accordance with 24 V.S.A. §4412(4), no bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. A zoning permit, subject to administrative review by the Zoning Administrator, shall be required in order to ensure that the home occupation complies with the following standards:
- A. The floor area devoted to a home occupation shall not exceed 30% of the total floor area of the dwelling.
 - B. The home occupation shall be carried on by residents of the dwelling, and may include up to three full-time equivalent on-premises employees who are not residents of the dwelling.

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- C. The home occupation shall not produce objectionable impacts, such as noise, vibration, smoke, dust, electrical disturbance, odor, heat, fugitive light, or glare.
 - D. No exterior display of the home occupation shall be allowed other than one sign, not exceeding six square feet in size, and in accordance with §411 of these regulations.
 - E. Exterior storage of materials and/or exterior indication of the home occupation and/or a variation from the residential character of the principal structure and/or the residential area, shall not be permitted.
 - F. Parking shall be provided off-street in accordance with §308 of these regulations and shall not be located on front lawns.
 - G. New parking areas created to accommodate the home occupation shall be designed to minimize runoff and maximize infiltration.
 - H. Traffic generated by the home occupation shall not be greater than what would normally be expected in the residential area in which the dwelling is located.
 - I. Retail sales or services on-site are limited to the sale of goods or services produced on the premises and related products.
 - J. Adequate provisions shall be made for water, wastewater, and the disposal of solid waste, in accordance with applicable municipal and state regulations.
- 407.03 Home-Based Industry: May be allowed as an accessory to a single-family dwelling in all districts. Home-based industries will be subject to Conditional Use approval under §208 and shall meet the following standards of Site Plan Review under §207 and shall meet the following standards:
- A. The home-based industry shall be carried on by residents of the dwelling; in addition, up to four full-time equivalent non-resident employees may work on the premises at any one time.
 - B. The home-based industry shall be carried on within a portion of the principal dwelling, not to exceed 60% of the gross floor area of the principal dwelling, or within an accessory structure.
 - C. The home based industry shall not have an undue adverse impact on the character of the neighborhood, or result in a change in the outward appearance of the dwelling or the accessory structure.
 - D. Exterior storage areas (e.g. for building, construction materials, dumpsters) must be completely screened year-round from view from the nearest public right of way and from neighboring properties. Landscaping may be required as appropriate. The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g. heating oil).
 - E. The home-based industry shall not generate traffic, including delivery traffic, in substantially greater volumes than is characteristic of the neighborhood.

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- F. Adequate off-street parking shall be provided for resident, employees, and customers in accordance with §308 of these regulations.
- G. Commercial vehicles or equipment associated with the home-based industry shall be parked as unobtrusively as possible.
- H. Adequate provisions shall be made for water, wastewater, and the disposal of solid waste, in accordance with applicable municipal and state regulations.
- I. The home-based industry shall be allowed one (1) sign which shall not exceed nine (9) square feet of sign area, and meet all other applicable sign standards of §411 of these regulations.
- J. The home-based industry shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference, fugitive light, or heat which is detectable at the property line or otherwise presents a nuisance or hazard to public health and safety, or to neighboring properties.
- K. On-site retail sales shall be incidental to the business.
- L. In reviewing proposed home-based industries, the Development Review Board reserves the right to restrict hours of operation in order to ensure compliance with these standards.

§ 408: Industrial Performance Standards

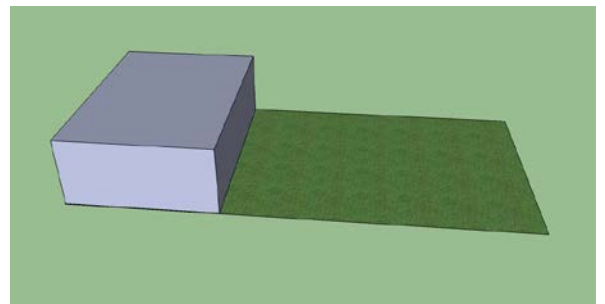
408.01 The Development Review Board may require an independent study pertaining to one or more of the potential impacts to adjoining properties and uses within the vicinity of the project to ensure that the proposed use will operate in conformance with the standards.

- A. Dimensions/Intensity:
 - i. The gross floor area of Class I Industrial structures shall be no greater than 10,000 sq. ft.
 - ii. Class II Industrial uses shall be sited on lots that are no smaller than two acres. Gross floor area shall cover no more than 30% of the buildable area the lot. (See the inset.)

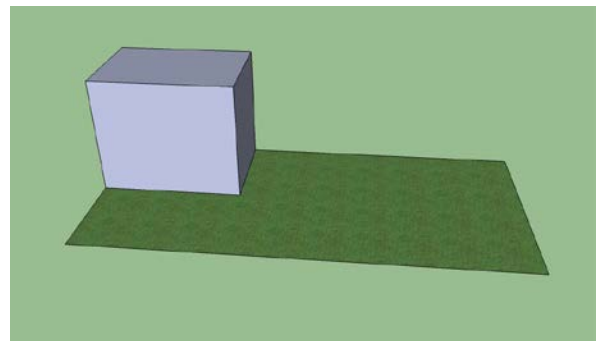
The Gross Floor Area is the sum of all the horizontal areas of all the enclosed floors of a building, including cellars, basements, corridors and lobbies.

The Gross Floor Area for Class II Industrial uses can equal no more than 30% of the buildable area of the lot.

For example, this shows a 30% gross floor area for a one-story building. (Figure 1)



This shows a 30% gross floor area for a two-story building. (Figure 2)



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- B. Enclosure of Activity:
- i. All activities associated with Class I Industrial uses shall be enclosed within the principal structure on the lot.
 - ii. All activities associated with On-Farm Processing shall be enclosed within a structure on the lot.
- C. Fire and Explosion:
- i. The manufacture of flammable liquids and gases and explosive materials is prohibited.
 - ii. All flammable and explosive materials used in processing shall be protected by adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment and devices which are standard for such industry or activity.
- D. Vibration: All industrial uses shall cause no inherent and recurring generated vibration at any point along the lot line. Temporary construction and maintenance activities are excluded from this restriction.
- E. Noise [as measured by The American National Standards Institute (ANSI) Standard S1.1, Acoustical Terminology]:
- i. Noise shall not exceed 45 fast, A-weighted decibels (LAFmax) at or beyond the lot line of the property from which it originates from 7:30 a.m. to 7:30 p.m. Specifically exempted from these standards are:
 - a. Temporary maintenance or construction activity;
 - b. Transportation vehicles not used in the ordinary operation of a use or a business; and
 - c. Occasionally used safety signals, warning devices, and emergency relief valves.
 - ii. Noise shall not exceed 40 fast, A-weighted decibels (LAFmax) at or beyond the lot line of the property from which it originates from 7:30 p.m. to 7:30 a.m. Specifically exempted from this standard are:
 - a. Emergency repair or maintenance necessary to protect life or property; and
 - b. Repair or maintenance conducted by the municipality; and
 - c. Occasionally used safety signals, warning devices, and emergency relief valves; and
 - d. Snow removal operations.
 - iii. In no case and at no time shall noise exceed 30 fast, A-weighted decibels (LAFmax) indoors at any existing surrounding residences.

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- F. Odor: The emission of odors that are considered offensive to most reasonable people and are detectable at the property line are not permitted.
- G. Emissions, Particulates and Air Pollution:
 - i. No emissions shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property.
 - ii. Dust created by an industrial operation shall not be exhausted or wasted directly into the atmosphere.
 - iii. Dust and other types of air pollution borne by the wind from such sources as storage areas and roads shall be minimized by landscaping or other acceptable means.
- H. Electrical Interference: The industrial use shall not create electrical interference in neighboring buildings or land uses.
- I. Heat: Heat emitted at any or all points shall not at any time cause temperature increase perceptible to humans on any humans on any adjacent property, whether such change be in air, ground or water temperature, or in the temperature of any structure adjoining the property.
- J. Lighting: Industrial and exterior lighting shall not be used in such a manner that produces glare on public roads and neighboring properties. Arc welding, acetylene torch cutting or similar process shall be performed so as not to be seen from the nearest public right of way or neighboring properties.
- K. Liquid and Solid Wastes: No discharge of liquid or solid wastes or other materials of such nature or temperature as can contaminate surface or groundwater shall be permitted into the ground or any rivers, lakes, or ponds, except in accordance with all state and federal regulations.
- L. Open Storage:
 - i. Open storage of materials incidental to Class I Industrial uses is prohibited.
 - ii. All open storage of materials incidental to Class II Industrial uses shall be screened from view from the nearest public right of way and neighboring properties and shall be secured from access by the general public.
 - iii. The open storage of lumber or other combustible materials shall be situated so it may be accessible to fire trucks at any time.
- M. Traffic and Road Access:
 - i. Class I Industrial uses shall have no more than three (3) semi-truck deliveries per day.
 - ii. Semi-truck traffic of Class II Industrial uses shall not exceed 10% of the projected daily trip generation, as determined in the §1111 permitting

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process (for accessing state highways) or by some other means deemed reasonable by the developer and the Development Review Board.

- iii. Hours of Operation: Operating hours for Class I Industrial uses shall be from 7:30 a.m. to 7:30 p.m. The Development Review Board reserves the right to modify or restrict hours of operation for all classes of industrial uses.
- iv. Impervious surfaces for parking, loading, and general vehicular circulation shall cover no more than 50% of the buildable area of the lot. The Development Review Board reserves the right to restrict the use of impervious surfaces in areas near streams, wetlands, and other water resources in order to preserve natural rates of infiltration and to protect the quality of surface and ground water.
- v. Class II Industrial uses shall be accessed from Route 5. To the extent feasible, shared access along Route 5 shall be encouraged.
- vi. After public notice and hearing, the Development Review Board may grant a waiver to establish access from Underpass Road for a Class II Industrial use if ALL of the following apply:
 - a. The use cannot be accessible by dry land in accordance with the town's Flood and Erosion Hazard regulations;
 - b. The use cannot be accessed in accordance with §306 of this bylaw;
 - c. The use cannot be accessed by sharing a driveway with a neighboring use on Route 5; and
 - d. The use will not generate traffic greater than what would normally be expected in the area in which the access is located.

§ 409: Extraction of Earth Resources

409.01 Applications for earth extraction shall be subjected to Conditional Use Review in accordance with §208 and Site Plan Review in accordance with §207 and of these regulations. For review, the applicant shall provide a narrative detailing the operating, grading, and stormwater management and erosion control, and site reclamation plans, including:

- A. An assessment of the impact of proposed extraction areas on surface and groundwater supplies for any extraction area within a source protection area or within 1,000 feet of an existing spring or well.
- B. A statement of estimated traffic impact maybe be required, including information regarding site access, the type and weight of vehicles to be used to transport materials, trip generation rates (average and maximum number of truck trips per day at peak operation) and proposed truck routes through town.
- C. Pursuant to State requirements, stormwater management and erosion control practices to used and installed for all phases of the operation.

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- D. Fencing, landscaping, screening lighting and sign information.
 - E. Also for review, the applicant shall provide on a USGS quad map at the 7.5 minute scale or an orthographic photo to depict the following:
 - i. The location and extent of proposed extraction areas and any of the following located on and within 200 feet of the proposed site: existing vegetation and soils; property lines, structures, wells and septic systems, utilities, and road rights-of-way; surface waters, wetlands and required buffers; special flood hazard areas and source protection areas.
 - iii. Site geology and soils information, including bedrock and soil characteristics, and depths to bedrock and seasonal high water tables as determined from at least four test borings that extend to ledge, the seasonal high water table or a minimum of six feet below the lowest proposed extraction limit.
 - iv. As required by the state, finished grades at the conclusion of operations, including final elevation contours.
- 409.02 No extraction or stockpiling of topsoil shall occur within the flood hazard areas or within 50 feet of wetlands and 100 feet of streambanks, or any other natural bodies of water.
- 409.03 There shall be no adverse effect on existing groundwater. The installation of monitoring wells may be required as necessary to monitor groundwater quality.
- 409.04 Pursuant to State requirements, all topsoil shall be stockpiled on the site and shall be stabilized and vegetated within two weeks.
- 409.05 All reasonable measures shall be taken to limit the amount of dust and particulates generated from the extraction, processing, and transport of materials. Such measures shall include, but are not limited to:
- A. Use of calcium chloride or other accepted agents to reduce dust on roads;
 - B. Prohibiting processing equipment with a maximum rating of more than 150 tons per hour within 500 feet of any residence or public property.
 - C. Covering trucks carrying materials off site.
- 409.06 Blasting shall not be conducted by within 1,000 feet of residential and commercial structures (including wells and springs) without the express written permission of the affected property owner(s). Blasting may be conducted by licensed and insured professionals, who shall submit a plan in accordance with all State and federal regulations, and which shall consider and inventory structures (including wells and springs) within a minimum of 1,000 feet of blasting operations. The applicant must notify all affected property owners within a minimum of 1,000 feet of the blasting operations.
- 409.07 The earth extraction operation shall be served by no more than one highway access, unless specifically approved by the Development Review Board in consultation with the Vermont Agency of Transportation. There shall be no access within 500 feet of a residence unless agreed to by the affected property owner in writing.

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- 409.08 The earth extraction operation shall not generate truck traffic that results in traffic hazards or degradation of highway infrastructure. The Development Review Board reserves the right to require an independent transportation study at the expense of the applicant to assist in making this determination.
- 409.09 Pursuant to State regulations, the applicant shall file annual State stormwater management permits with the town to ensure that stormwater management and erosion control systems are being managed and maintained.
- 409.10 When reviewing an application for earth extraction, the Development Review Board shall also review and approve in advance site reclamation plans for each phase of extraction that restores disturbed areas to a safe, attractive, usable, and vegetated condition. Specifically:
- A. Site reclamation shall occur within three months following the completion of each phase of extraction.
 - B. All stockpiled materials and debris shall be incorporated in or removed from the site.
 - C. Excavation areas shall be evenly graded and filled as necessary to blend into the natural topography. Typical grading shall not exceed one (1) vertical to two (2) horizontal feet.
 - D. All disturbed areas, except for exposed bedrock, shall be spread with a minimum of four inches of topsoil and revegetated and maintained in conformance with current state and federal guidelines.
 - E. Natural drainage patterns shall be restored so that water draining from the site is directed to natural drainage points at similar rates. The DRB reserves the right to require safety measures for any remaining standing bodies of water.
- 409.11 In accordance with 24 V.S.A. §4424(12) and §4464(B) (6) a performance bond, escrow account, or other surety acceptable to the Selectboard may be required to ensure reclamation of the land upon completion of the excavation. The town may take legal action as appropriate to ensure site reclamation and cost recovery, in the event that the permit holder or their assigns fails to complete the site reclamation as required. A general approach may be to require a financial guarantee of an amount per acre of unreclaimed area.
- 409.12 The following uses are exempt from these standards:
- A. The extraction of less than 1,000 cubic yards over the course of twelve consecutive months, to be extracted for personal uses or on another property in common ownership;
 - B. Non-commercial use associated with normal agricultural and/or forestry operations on the property or on another property in common ownership.
 - C. Removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

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- 409.13 Existing earth extraction operations that are considered non-conforming uses may continue indefinitely in accordance with Article VI of these regulations provided that:
- A. The earth extraction operation is located outside of a flood hazard area as defined by Article V of these regulations.
 - B. The project remains in compliance with Act 250.
 - C. The amount of unreclaimed land is not increased.
 - D. The annual rate of extraction is not increased over the average annual rate established for the previous 10-year period, as measured in volume of material or truck traffic;
 - E. No additional onsite processing equipment is added, resulting in measurable increases in offsite impacts.
 - F. Existing landscaping or screening or earth berms are not removed; and
 - G. Extraction activities or stockpiling does not further encroach into flood or erosion hazard areas, or in areas within 50 feet of wetlands, and 100 feet of streambanks, or any natural bodies of water.
 - H.. Site reclamation plans are developed and submitted for approval by the Development Review Board to restore natural land contours, to prevent adverse impacts, to maintain drainage patterns, and to revegetate areas where extraction has been completed. The DRB may require a schedule for implementation of the reclamation plan.
 - I. If an inspection by the Zoning Administrator determines that above conditions are not being met, the owner may be required to apply for a permit under the regulations currently in effect.

§ 410: Temporary Uses and Structures

Temporary permits may be issued by the Zoning Administrator for a period not exceeding six months, for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding two years.

§ 411: Signs

No signs shall be permitted in any district except as specifically permitted herein.

411.01 The following signs are permitted when located on the immediate property:

- A. One (1) professional or home occupation sign, not exceeding eighteen (18) square feet.
- B. One (1) temporary real estate sign, not exceeding six (6) square feet.

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- C. Signs identifying any pre-existing non-conforming or permitted non-residential use.
- D. Signs necessary for public welfare.

411.02 The following signs shall not be permitted in any district:

- A. Flashing, oscillating, or revolving signs.
- B. Roof signs.
- C. Free standing signs in excess of eight (8) feet in height.
- D. Signs which impair public safety.

411.03 Wall, Projecting, and Freestanding Signs:

- A. Every wall sign shall:
 - i. Not exceed the highest point of the building's roof.
 - ii. Not exceed eighteen (18) square feet in area.
- B. Every projecting sign shall:
 - i. Not extend into a highway right-of-way.
 - ii. Not extend horizontally more than 4 feet from the building wall.
 - iii. Not be less than 10 feet above the surface of a public walking area.
 - iv. Not exceed eighteen (18) square feet in area.
- C. Every freestanding sign shall:
 - i. Not exceed 8 feet in height
 - ii. Be set back at least 30 feet from the centerline of the traveled portion of the right-of-way, and at least 10 feet from any side or rear lot line.
 - iii. Not exceed eighteen (18) square feet in area

411.04 Computation of permissible sign area. When computing the total permissible sign area for any use:

- A. Existing signs shall be included.
- B. The total area of all signs shall not exceed the requirements as set forth in these regulations.
- C. Signs consisting of free standing letters, numerals, or other devices shall include any intervening space between them.
- D. Only one side of a double sided sign shall be considered when calculating the sign area as long as both sides of the sign are identical.

411.05 Traffic hazard, safety, and obstruction. Every sign shall be designed and located in such a manner as to:

- A. Not impair public safety.

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- B. Not restrict clear vision between a sidewalk and a street.
- C. Not be confused with any traffic sign or signal.
- D. Not prevent free access to any door, window, or fire escape.

411.06 Illuminated and flashing signs:

- A. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.
- B. Flashing, oscillating, and revolving signs shall not be permitted, unless necessary for public safety or welfare.

§ 412: Lighting

412.01 To ensure appropriate lighting while minimizing its undesirable effects, the following general standards shall apply to all outdoor lighting in the Town of Sutton:

- A. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.
- B. Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, roads, or public waters; and shall not result in excessive lighting levels which are uncharacteristic of a rural area.
- C. Outdoor lighting fixtures shall be cast downward and shall be designed to avoid glare and harsh contrasts in color and/or lighting levels.
- D. Whenever possible outdoor lighting fixtures shall have timers, dimmers, and/or sensors to reduce energy consumption and eliminate unneeded lighting.
- E. Outdoor lighting fixtures for non-residential uses shall be illuminated only during hours of operation.

412.02 The installation or replacement of all outdoor lighting fixtures shall require a permit, except for the following:

- A. One- or two-unit residential structures,
- B. Active farms, and
- C. Holiday lighting

412.03 Outdoor lighting installations involving two or fewer permanent fixtures may be approved by the Zoning Administrator, provided that no single bulb exceeds 150 watts, and that the total wattage of the bulbs does not exceed 300 watts. All other outdoor lighting installations, except for those identified in (2) above, must be approved by the Development Review Board.

412.04 Outdoor lighting installations associated with development that is subject to Subdivision Review, Site Plan Review, or Conditional Use Review, the Development Review Board may require the following:

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- A. Information regarding exterior lighting fixtures, including fixture type, mounting locations and heights, illumination levels and distribution, and color;
- B. A lighting plan, prepared by a qualified engineer or lighting expert;
- C. The underground place of electrical service to outdoor lighting fixtures;
- D. The use of security or street lighting if unusual or hazardous conditions require it. Security lighting, if required by the Development Review Board, shall be shielded and aimed so that only designated surfaces are illuminated; and
- E. Street lighting, if deemed necessary by the Development Review Board, for safety or security, such as at road intersections, pedestrian crossings, or walkways.

412.05 The Development Review Board may waive or modify the requirements of this section if it finds that doing so will not:

- A. Jeopardize the stated intent of 412.01, or
- B. Such a modification or waiver is needed for public safety or to meet an overriding public purpose, such as the illumination of a public building or monument.

§ 413: Recreational Vehicles

413.01 It shall be unlawful for any person to park a recreational vehicle (also known as camping trailer, travel trailer, pick-up coach or motor home) on any public or private property except that a property owner may park his own recreational vehicle or that of a visitor on his own property provided the vehicle is parked no closer than six feet to any lot line. A recreational vehicle so parked maybe occupied from April 15th to October 31th provided the following conditions are met:

- A. A recreational vehicle parked in a flood hazard area remains licensed and ready for road use at all times;
- B. All wastewater/greywater disposal meets public health and sanitation requirements.

413.02 A recreational vehicle intended for occupancy from November 1 through April 14th shall require a permit from the Zoning Administrator.

§ 414: Campground/Recreational Vehicle Parks

414.01 Parks shall provide for individual recreational vehicle access driveways and parking.

414.02 Each recreational vehicle/travel trailer campsite shall be at least 2,500 square feet in area, and have a compacted gravel or other suitable surface at least 20 feet in width and length.

414.03 All recreational vehicles parked in campsites located in the Special Flood Hazard Area must be fully licensed and ready for highway use at all times.

414.04 At least three trees (of at least one-inch diameter at base) shall be located on each site unless growing there, and shall be suitably maintained by the applicant.

414.05 There shall be a minimum of 30 feet clearance between each campsite.

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- 414.06 An area between all campsites and the traveled portion of any adjacent public highway and any other boundary of the park abutting a property used for residential purposes shall be landscaped with existing or newly planted trees to a depth of twenty-five feet.
- 414.07 Campsites within the park shall be placed no closer than 200 feet to a dwelling (other than the owner's dwelling on the park property) or within 50 feet of a public right-of-way or abutting property line, whichever distance is greater.
- 414.08 The Development Review Board may attach such reasonable conditions and safeguards as may be necessary to implement the provisions of 24 VSA, Chapter 117, and this zoning bylaw in order to protect the public health, safety, and welfare. These may include provisions for landscaping.

§ 415: Mobile Home Park Standards

The following regulations shall apply with respect to mobile home parks and all mobile homes in parks:

- 415.01 A mobile home park shall have an area of not less than 5 acres.
- 415.02 Mobile home parks shall provide for individual mobile home spaces, access driveways, parking and recreation open space.
- 415.03 Each mobile home space shall be at least 7,200 square feet in area, and at least sixty feet wide by at least one hundred and twenty feet in depth, and shall front on an access driveway.
- 415.04 All access driveways within a mobile home park shall have a right-of-way at least fifty feet in width and have a treated gravel surface at least twenty-four feet in width and twelve inches in depth of compacted gravel. All weather walkways shall be provided.
- 415.05 Two parking spaces with twelve inches (in depth) of compacted gravel for each mobile home space shall be provided. Such parking spaces shall be at least nine feet wide by eighteen feet long.
- 415.06 Mobile home parks shall provide at least ten percent of the total area for recreation and other open space purposes.
- 415.07 A suitable non-porous pad shall be provided for each mobile home.
- 415.08 Each mobile home space shall have an attachment for water supply which is adequate, safe and potable. The water supply source must be approved by the State Department of Health and meet all local and state regulations.
- 415.09 Each mobile home lot shall have an attachment for sewage disposal. The method of sewage disposal must be in compliance with the State Department of Health and local regulations. However, such sewage disposal system shall not be located on the mobile home space unless such mobile home space is at least one acre in size.
- 415.10 No mobile home office or service building shall be closer to a public street-right-of-way line than eight feet, or closer to a property line than fifty feet.
- 415.11 A strip of land at least twenty-five feet in width shall be maintained as a landscaped area abutting all mobile home park property lines except when the park boundary is

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adjacent to residential uses where the landscaped area shall be at least fifty feet in width.

- 415.12 No additions shall be made to a mobile home except for a canopy, porch, or mudroom open on three sides, or an addition made by the mobile home manufacturer.
- 415.13 Provisions for disposal of household garbage and rubbish shall be made.
- 415.14 A mobile home shall be located on the mobile home space so that it is at least twenty feet from the right-of-way of the access driveway and ten feet from any other lot line of the mobile home space.

ARTICLE V: FLOOD HAZARD AREAS

§ 501: Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411, §4414, and 24 V.S.A. Chapter 59, and in accordance with the intentions specifically stated in §102 of these unified development bylaws, there is hereby established a bylaw for areas at risk of flood damage in the Town of Sutton, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures described in Article IX of these bylaws.

§ 502: Warning of Disclaimer of Liability

These regulations do not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. These regulations shall not create liability on the part of the Town of Sutton, or any municipal official or employee thereof, for any flood or erosion damage that results from reliance on these regulations, or any administrative decision lawfully made hereunder.

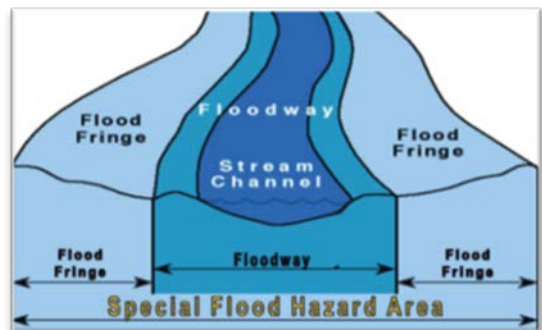
§ 503: Lands to Which These Regulations Apply

How Sutton's Flood Hazard Regulations Work

The town of Sutton has opted to join the National Flood Insurance Program, which allows ALL property owners in Sutton to purchase flood insurance at more affordable rates. In order to join the National Flood Insurance Program, the Town must adopt and enforce regulations that, at a minimum, meet FEMA's standards set forth in 44 CFR. These regulations, therefore, use the technical terms in 44 CFR. Some of the more common terms are explained and illustrated here. Refer to Article XI for precise definitions.

NOTE: These regulations meet the minimum standards and requirements of 44 CFR and are explained in greater detail in footnotes.

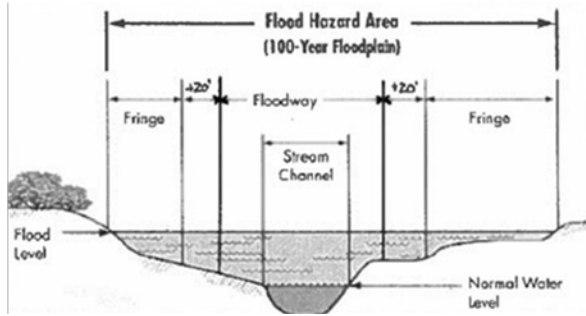
Special Flood Hazard Areas are areas exposed to more than a 1 % chance of inundation by overflow from rivers and streams in any given year. (This flood event is called the "**base flood**" or the "**100 year flood**." The latter term is misleading because the flooding can occur much more frequently than once a century! The Special Flood Hazard Area is mapped by FEMA to identify risk for the National Flood Insurance Program. This area is composed of the **floodway**, where the waters run the deepest and fastest. The remaining portion outside of the floodway is known as the flood fringe. Sutton's FEMA maps (known as a **Flood Insurance Rate Map**) do not delineate the floodways.



(cont'd. next page)

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Base Flood Elevation (BFE) is the height to which the floodwater is anticipated to rise during the base flood. The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium. The BFE is illustrated as the "flood level in the illustration below.



Base flood elevations do not appear on Sutton's FEMA maps.

503.01 Regulated Flood Hazard Areas: These regulations shall apply to 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 Section 753, which are hereby adopted by reference and declared to be part of these regulations.

503.02 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.

503.03 The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.

§ 504: Administration

504.01 Application Submission Requirements

Applications for development shall include:

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

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permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin.²

504.02 Referrals

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

504.03 Decisions

The Development Review Board shall consider comments from the NFIP Coordinator at ANR. The Development Review Board may recess the proceedings on any application pending submission of additional information.

504.04 Records³

The Zoning Administrator shall properly file and maintain a record of:

- A. All permits issued in areas covered by this bylaw;
- B. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;

² To participate in the National Flood Insurance Program, 44 CFR requires that all communities assure that all other permits have been secured. [44 CFR 60.3 (a) (2)] The Project Review Sheet is an efficient way to meet this requirement.

³ The National Flood Insurance Program requires the community to keep records of permits, variances, elevations, flood proofing and certifications. [CFR 60.3(b)(5)]

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

§ 505: Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

Activity		
P Permitted C Conditional Use Review X Prohibited E Exempted	Special Flood Hazard Area	Floodway
New Structures	C	X
Storage of materials	P	X
Improvements to Existing Structures	P/C	C
Accessory Structures	P/C	X
At Grade Parking	P	C
Replacement water supply or septic systems	P	C
Fill as needed to elevate existing structures	C	C
Fill	X	X
Grading	C	C
Road Maintenance	E	E
Road Improvements	C	C
Bridges and culverts	C	C
Channel Management	C	C
Recreational vehicles	P	P
Removal of an existing structure	E	E
Open space, recreation	E	E
Forestry	E	E
Agriculture	E	E

§ 506: Development Review in Hazard Areas

505.01 **Permit:** A Permit is required from the Zoning Administrator for all development in all areas defined in § 503. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to the municipal jurisdiction in the designated hazard areas shall meet the criteria in these regulations.

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Any permit issued will require that all other necessary permits from State and Federal agencies have been received before work may begin.

506.02 Permitted Development: For the purposes of review under these regulations, the following development activities meeting the Development Standards in § 507, require only an administrative permit from the Zoning Administrator:

- A. In the Special Flood Hazard area where outside of the floodway:
 - i. Development related to on-site septic or water supply systems
 - ii. Recreational vehicles
 - iii. Non-substantial improvements
 - ii. Accessory structures of 500 sq. ft. or less
 - iii. Storage of materials⁴
 - iv. Building utilities (e.g. HVAC, water, sewer, electrical)
 - v. At-grade parking for existing buildings

506.03 Prohibited Development in all Hazard Areas

- B. Salvage or junk yards;
- C. New fill except as necessary to elevate structures above the base flood elevation; (in no instance shall fill restrict the capacity of the floodway)
- D. Accessory structures in the floodway;
- E. Critical facilities
- F. All development not exempted, permitted, or conditionally permitted.

506.04 Conditional Use Review: Conditional use review and approval by the Development Review Board is required prior to the issuance of a permit for the following development:

- A. New residential or non-residential structures (including the placement of manufactured homes);
- B. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
- C. Accessory structures larger than 500 sq. ft.
- C. New or replacement storage tanks for existing structures;
- D. Improvements to existing structures in the floodway;

⁴ FEMA's minimum standards for floodplain development allow storage of materials, provided it is located outside of the floodway. Because Sutton's floodways are not mapped, developers may have to hire an engineer to map the floodway boundaries in order to meet these standards.

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- E. Grading, excavation, or the creation of a pond;
- F. Improvements to existing roads;
- G. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
- H. Public utilities;

506.05 Exempted Activities: The following are exempt from regulation under this bylaw:

- A. The removal of a building or other structure in whole or in part;
- B. Routine maintenance of an existing structure, such as the replacement of a roof;
- C. Maintenance of existing roads and storm water drainage;
- D. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and
- E. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices. Prior to the construction of farm structures the farmer must notify the Zoning Administrator in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

506.06 Variances: Variances may be granted in writing by the Development Review Board only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424, and 44 CFR Section 60.6, after a public hearing noticed as described in Article X.

- A. 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.

506.07 Nonconforming Structures and Uses. The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

- A. The proposed development is in compliance with all the Development Standards in § 507 of this bylaw;
- B. 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;

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- C. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
- D. 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.

§ 507 Development Standards

507.01 Special Flood Hazard Area

- A. All development shall be:
 - i. Reasonably safe from flooding;
 - ii. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - iii. Constructed with materials resistant to flood damage;
 - iv. Constructed by methods and practices that minimize flood damage;
 - v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - vi. Adequately drained to reduce exposure to flood hazards;
 - vii. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - viii. 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.
- B. In FEMA Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
- C. Structures, including manufactured homes, to be constructed, placed, or substantially improved in Zones A, A1-30, AE, and AH shall be located such that

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the lowest floor is at least one foot above base flood elevation⁵, this must be documented, in as-built condition, with a FEMA Elevation Certificate;

- D. Non-residential structures to be constructed or substantially improved shall:
 - i. Meet the above standard in 507.01C; or,
 - ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that they are at or above the base flood elevation⁶, the structure is watertight with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- E. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- F. Fully enclosed areas that are above grade, below the lowest floor, below Base Flood Elevation and subject to flooding, shall
 - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- G. Recreational vehicles must be fully licensed and ready for highway use;
- H. 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

⁵ 44 CFR 60.3 (c) (2) (3) requires residential structures to be at or above the base flood elevation. Flood insurance rates are substantially reduced for structures one foot or more above base flood elevation. Over time, the elevation of the base flood may increase as the stream changes position, and as the floodplain is encroached upon, so one foot above the base flood affords an additional degree of protection.

⁶ FEMA's minimum development standards require dry floodproofing (of nonresidential structures) only to the base flood elevation. However, a structure that meets – but does not exceed – these standards may be more expensive to insure. The flood insurance rating manual only gives credit for dry flood proofing when the structure is made watertight to at least one foot ABOVE the base flood elevation. The Vermont Rivers Program recommends dry proofing to at least two feet above the base flood elevation to get the insurance benefit and to better protect a structure from changes in flooding over time.

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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 506.01G (above).

- I. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- J. 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.
- K. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- L. 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.
- M. 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.
- N. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.

507.02 Floodway Areas

- A. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - i. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - ii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding
- B. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

§ 508: 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 Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and

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associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

§ 509: Enforcement and Penalties

- 509.01 This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24VSA Chapter 117 § 4451, § 4452 and 24 VSA Chapter 59 §1974a, A copy of the notice of violation will be mailed the State NFIP Coordinator.
- 509.02 If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- 509.03 Violations of the Required 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. Violations of Acceptable Management Practices for forestry shall also be enforced under this section as violations of this bylaw. Such violations shall also be immediately reported to the Dept. of Forests, Parks and Recreation and to the Agency of Natural Resources.

ARTICLE VI: NON-CONFORMING USES AND STRUCTURES

§ 601: Construction Approved Prior to Adoption or Amendment to Regulations

Permits issued prior to the enactment of this bylaw that are valid on the effective date of this bylaw may be utilized, even if such permits will result in a nonconformity. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. Such nonconformities, however, shall be substantially commenced within the permit's effective period of one year. Applications to renew expired permits issued under the prior bylaw will not be approved unless the structure or use for which the original permit was issued conforms to the requirements of this bylaw.

§ 602: Non-Conforming Uses

In accordance with 24 VSA, § 4412 (7) the following provisions shall apply to all non-conforming uses existing on the effective date of this bylaw. Any non-conforming use may be continued indefinitely but:

- A. The Development Review Board may, after public notice and hearing, allow the expansion of any non-conforming use. Such expansions shall not normally exceed 20 percent of gross floor area of the original structure, but variances may be considered on a case-by-case basis with adequate justification. Conditional use review by the Development Review Board shall be required prior to the issuance of a permit and such expansion shall conform to all other applicable requirements of this bylaw.
- B. Shall not be changed to another non-conforming use.

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- C. Shall not be reestablished if such use has been discontinued for a period of twelve (12) months, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- D. Shall not be restored for other than a conforming use after damage from any cause, unless restoration of the non-conforming use is substantially commenced within one year of such damage and construction is completed within 30 months. If the restoration of such building is not completed within 30 months, the non-conforming use of such building shall be deemed to have been discontinued, unless carried on without interruption in the undamaged part of the building.

§ 603: Non-Conforming Structures

In accordance with 24 VSA, § 4412(7) the following provisions shall apply to all non-conforming structures:

- A. A non-conforming structure may exist indefinitely (i.e. be “grandfathered”) and may be expanded without limitation provided the expansion is in accordance with all applicable requirements in this bylaw, does not increase the degree of nonconformance and meets the requirements regarding expansion of a non-conforming use if the structure contains a non-conforming use.
- B. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformance.
- C. A non-conforming structure shall not be moved unless it is moved so as to conform with the setbacks specified in the appropriate district.
- D. Notwithstanding § 603(A)-(C), a nonconforming structure in regulated flood hazard areas may only be extended, enlarged, altered, moved, or expanded in accordance with §506 of this bylaw.

ARTICLE VII: SUBDIVISION REVIEW

§ 701: Applicability

701.01 In accordance with the 24 VSA, § 4418, whenever any subdivision of land is required, the subdivider and/or his authorized agent shall apply for and secure approval of such proposed subdivision according to the procedures outlined in this bylaw prior to any of the following activities:

- A. Construction, land clearing, or building development;
- B. Contract of sale of all or any part of the land or structures involved;
- C. Granting of a permit for the erection of a building or structure; or
- D. Filing of a subdivision plan with the Town Clerk.

701.02 The adjustment of boundary lines and any proposed subdivision that creates up to five new lots within a continuous five year period shall be treated as a Minor Subdivision.

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The creation of six lots or more within a continuous five-year period shall be treated as a Major Subdivision.

- 701.03 Notwithstanding subsection 701.01 and 701.02, the adjustment of a boundary between two adjoining parcels which involves less than one acre of land to be transferred shall not be subject to review as a subdivision and will be subject to review and approval by the Zoning Administrator, provided that the Zoning Administrator finds all of the following to be true:
- A. It does not substantially change the nature of any previous subdivision;
 - B. It does not create any new lot as a result of the adjustment;
 - C. It will not adversely impact access to any parcel;
 - D. It will not adversely impact any significant natural resource or result in fragmentation of agricultural land or identified fragile natural feature;
 - E. It will not result in the development on any portion of a parcel that has been designated as open space as the result of a prior municipal permit or approval, or allow for the acreage of any open space parcel to be applied to the maximum density or minimum lot size for another parcel; and,
 - F. It will not create any nonconformities.
- 701.04 A boundary line adjustment meeting all of the above requirements shall require a Zoning Permit from the Zoning Administrator, along with a sketch. The Zoning Administrator shall record these documents in the Sutton Land Records indicating that the conveyance is in compliance with these Unified Development Bylaws. The Zoning permit shall expire one year after its date of issue if a deed has not been filed with the Town Clerk to record the land conveyance.

§ 702: Application and Fee

- 702.01 All applications for approval of Subdivisions shall be accompanied by a fee payable by check to the Town of Sutton, Vermont, stating the specific purpose of the fee.
- 702.02 Number of Copies: Two (2) copies of the Subdivision Sketch shall be presented to the Clerk of the Development Review Board at least ten (10) days prior to a scheduled monthly meeting of the Development Review Board.
- 702.03 Applicant to Attend Development Review Board Meeting: The applicant, or his duly authorized representative, shall attend the meeting of the Development Review Board to discuss the Subdivision Sketch.
- 702.04 Public Hearing: A public hearing shall be held by the Commission within thirty (30) days from the date of submission of the Subdivision sketch for approval. Said hearing shall be advertised in the official Town newspaper at least fifteen (15) days before such hearing and notice of said hearing shall be posted in three or more prominent places, including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made, at least fifteen (15) days prior to the hearing. At least 15 days prior to the hearing, notice of the hearing shall be sent to adjoining

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properties and to the clerk of an adjacent town in the case of a proposed subdivision located within five hundred feet of a Town boundary.

- 702.05 Decision: The Development Review Board shall, within forty-five (45) days from the close of the public hearing approve, modify and approve, or disapprove the Subdivision Sketch. The Development Review Board shall specify in writing its reasons for any such disapproval. In the event that a hearing is not held or if the Development Review Board fails to disapprove the subdivision within the forty-five (45) days specified above, the plan shall be deemed approved.
- 702.06 Filing of Approved Subdivision Sketch: Any subdivision sketch not so filed or recorded within one hundred and eighty (180) days of the date upon which such sketch is approved or considered approved by reason of the Development Review Board's failure to so act, shall become null and void.

§ 703: Subdivision Review

- 703.01 Approval of plats. Before any plat is approved, a public hearing on the plat shall be held by the Development Review Board after public notice. A copy of the notice shall be sent to the clerk of an adjacent municipality, in the case of a plat located within 500 feet of a municipal boundary, at least 15 days prior to the public hearing.
- 703.02 Plat; record. The approval of the Development Review Board shall expire 180 days from that approval or certification unless, within that 180-day period, that plat shall have been duly filed or recorded in the office of the clerk of the municipality. After an approved plat or certification by the clerk is filed, no expiration of that approval or certification shall be applicable.
- A. This regulation may allow the Zoning Administrator to extend the date for filing the plat by an additional 90 days, if final local or state permits or approvals are still pending.
- B. No plat showing a new street or highway may be filed or recorded in the office of the clerk of the municipality until it has been approved by the Development Review Board, and that approval is endorsed in writing on the plat, or the certificate of the clerk of the municipality showing the failure of the Development Review Board to take action within the 45-day period is attached to the plat and filed or recorded with the plat. After that filing or recording, the plat shall be a part of the official map of the municipality.
- 703.03 Acceptance of streets; improvements. Every street or highway shown on a plat filed or recorded as provided in this chapter shall be deemed to be a private street or highway until it has been formally accepted by the municipality as a public street or highway by ordinance or resolution of the Selectboard of the municipality. No public municipal street, utility, or improvement may be constructed by the municipality in or on any street or highway until it has become a public street or highway as provided in this section. The Selectboard shall have authority after a public hearing on the subject to name and rename all public streets and to number and renumber lots so as to provide for existing as well as future structures.

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§ 704: Subdivision Sketch

The Sketch Plan, which is the initial submission to the Development Review Board, shall show the proposed layout of streets, lots and other features. The Subdivision Sketch application shall include the following information:

- A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- B. A map drawn to scale.
- C. All site sanitation and water supply facilities shall be shown designed to meet the minimum specifications of the State Departments of Health and Water Resources, and a note to this effect shall be stated, with the sketch and signed by a licensed engineer.
- D. Proposed name of the subdivision or identifying title, name of the town in which it is located.
- E. The date, north point, map scale, name and address of record owner and developer, and names of adjoining property owners.

§ 705: Final Subdivision Plat

The Subdivision Sketch for a Minor Subdivision shall be accepted as a final plat. All other proposed subdivisions may be accepted as final plat at the discretion of the Development Review Board. The Final Plat is required to be upon mylar or polyester film reproduction clearly and legibly drawn, and the size of the sheets shall be specified by the Vermont Model Plat Law. Space shall be reserved thereon for endorsement by all appropriate agencies. The Subdivision Plat shall conform in all respects to the Preliminary Subdivision Sketch as approved by the Development Review Board and show some or all of the following:

- A. Proposed subdivision name or identifying title, the name of the Town, the name and address of the record owner and developer, the name, license number and seal of the licensed surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and graphic scale, date and true north point.
- B. Street names, and lines, pedestrian ways, lots, reservations, easements and area to be dedicated to public use.
- C. Sufficient data acceptable to the Development Review Board to determine readily the total area of each lot, the location, bearing and length of every street line, lot line, boundary line and reproduce such lines on the ground. Where practical, these lines should be tied to reference points previously established by a public authority.
- D. By proper designation on such Plat, all public open space for which offers of cession are made by the developer and those spaces title to which is reserved by him.
- E. Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
- F. All lot corner markers shall be shown thus: "0".

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§ 706: Layout and Marking of Lots

- 706.01 All lots proposed in a subdivision shall comply with the requirements for lot area and frontage or access as set forth in these regulations.
- 706.02 All land to be used for building purposes on the plat submitted for approval shall be of such character that it can be used for building purposes without danger to health.
- 706.03 The lot arrangement shall be such that in constructing or building in compliance these regulations, there will be no foreseeable difficulties for reasons of topography or other natural conditions. All lots shall have frontage on or access to public roads or waters as required by § 302 of these regulations.
- 706.04 Monuments constructed of concrete or stone at least 4 x 4 inches on the top and at least thirty-six (36) inches long shall be set at all lot corners.

§ 707: Streets

- 707.01 Dead end streets shall:
- A. Be designed to serve no more than twenty-five (25) lots.
 - B. Have a turn-around at the end of the street with a minimum radius of 60 feet.
- 707.02 All streets serving six (6) or more lots shall be constructed by the developer in minimal compliance with Class 3 standards from the VTrans Road and Bridge Standards (aka "The Orange Book"). Developers of smaller subdivisions are encouraged to construct access roads in conformance with the layout standards of 707.03.
- 707.03 Layout:
- A. New streets shall be laid out so as to provide for the continuation of existing streets that serve the abutting lands. Where topographic or other conditions make such continuance undesirable or impracticable, this requirement may be modified.
 - B. Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections.
 - C. Where possible, no curve shall have a center line radius of less than one hundred and fifty (150) feet. Changes in grade exceeding one (1) percent shall be designed in such a manner so as to provide a minimum sight distance of one hundred and fifty (150) feet.
 - D. Street grades shall be adequate to provide satisfactory drainage. In no case shall drainage be allowed onto any public right of way. Where possible, the maximum allowable grade shall be ten (10) percent. In no case shall a grade greater than three (3) percent be allowed at or within thirty (30) feet of an intersection.
 - E. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than sixty (60) degrees.
 - F. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall not be allowed.

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- G. A fifty (50) foot minimum right-of-way shall be required for all public and private streets within a proposed subdivision.
- H. Streets shall be identified by name on the preliminary plat. Proposed streets which are in alignment with existing named streets shall bear the same names. In no case shall the names for proposed streets duplicate or resemble the names of existing streets.

707.04 Curbs and Sidewalks: Curbs and/or sidewalks may be required on one or both sides of all streets. This requirement may be modified or waived by the Development Review Board.

§ 708: Utilities

708.01 Electric, telephone and cable TV distribution systems shall be installed underground, including services to residences and to street lights, unless waived by the Development Review Board. Utility lines shall be placed as close as possible to the edge of the right-of-way.

708.02 Street lights shall be installed according to lighting and spacing standards in accordance with §412 of these bylaws.

708.03 All street signs and posts shall be provided and installed by the Town at the expense of the developer.

708.04 Storm Drainage:

- A. The developer shall be required to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Culverts and other drainage facilities shall be minimally compliant with the VTrans Road and Bridge Standards (aka "The Orange Book"). The Development Review Board may consult with the Road Foreman, the Local Hazard Mitigation Plan, or the conditional of the General Permit in requiring additional measures to accommodate potential runoff.

§ 709: Site Preservation

709.01 Existing features which would add value to the subdivision, such as trees, watercourses and falls, brooks, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design.

709.02 Land shall be subdivided and improved in reasonable conformity with the existing topography in order to minimize grading, cutting and filling, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil.

709.03 The smallest practical area of land should be exposed at any one time during development. When land is exposed during development, the exposure should be kept to the shortest practical period of time. Land should not be left exposed during the

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winter months. Where necessary temporary vegetation and/or mulching and structural measures may be required by the Development Review Board to protect areas exposed during the development. Sediment practices (debris practices, desilting practices, or silt traps) shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development. Where possible, natural drainage-ways should be utilized and left open to remove excess surface water. The permanent final vegetation and structures should be installed as soon as practical in the subdivision.

- 709.04 The owner of the subdivision may place restrictions on the subdivision greater than those required by these regulations and any other State or local regulations. Such restrictions shall be attached to the plan and shall also, when applicable, be included as covenants in the deeds conveyed with each lot.

§ 710: Excavation and Grading

- 710.01 All excavating and filling required for construction of improvements shall be as specified herein. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavation material, if suitable, may be used for the grading of embankments and in filling low areas. A minimum of four (4) inches of top soil shall be provided to cover over all finished slopes. This material shall be spread uniformly over all finished slopes. All streets shall be graded from property line to property line to the approved grade and cross section,
- 710.02 No stumps, wood, roots, other fibrous materials shall be placed in any embankment. In those locations where the alignment crosses swamp or marsh lands, or other similar soil that is incapable of withstanding expected loads, such inadequate soil shall be entirely removed and replaced with adequate material. The materials so removed shall not be placed in embankment, but may be used in flattening embankment slopes or for filling low spots outside the road section. The Development Review Board may require the developer to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within the road section.
- 710.03 Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankment shall be placed in successive horizontal layers not exceeding nine (9) inches in depth extending across the entire fill area. They shall be spread by a bulldozer or other acceptable methods, and shall be compacted to 85% of native soil compaction. Successive layers shall not be placed until the layer under construction has been thoroughly compacted. Where embankments are made of rock, the rock shall be so deposited that all voids are filled with earth and in such a way that the compaction specified above may be secured.
- 710.04 Upon completion of filling and excavating, the subgrade shall be formed to the required grade and contour, and the entire surface again compacted as specified above in §710.03. High spots shall be removed and low spots filled with acceptable material and the process of leveling and compacting continued until no further depression results.
- 710.05 Side slopes on an embankment and on roadside drainage ditches shall descend one (1) foot vertically for at least each two (2) feet horizontally (2 on 1). Surplus material resulting from excavation of the road shall be used to flatten slopes of embankments so

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that they ascend one (1) foot vertically for at least two (2) feet horizontally (2 on 1). Side slopes in excavation rock shall ascend six (6) feet vertically for at least each one (1) foot horizontally (1 on 6). Where rock cuts have a face higher than ten (10) feet vertically, a three (3) foot berm shall be provided at each ten (10) foot level above the grade at the edge of the pavement. Side slopes shall not be graded so as to extend beyond the limits of the road right-of-way onto land not part of the subdivision unless a suitable slope easement has been properly established and granted by the affected property owner.

§ 711: Development Standard for Working Lands District

- 711.01 Original lots (prior to subdivision) that contain areas suitable for agriculture or forestry shall be kept largely intact. New lots should be of a size in order for the original lot to retain sufficient acreage to remain eligible for tax abatement programs (such as the Vermont Current Use Program).
- 711.02 Land to be transferred solely for agricultural or forestry purposes or for permanent conservation may be accomplished in any lot size, provided that such transfer does not result in any tract of land that is smaller than 25 acres, which would render the land ineligible for enrollment in the Vermont Current Use Program.
- 711.03 The remainder of land on the original tract to be permanently set aside from development shall be designated as such on the Final Plat in accordance with § 705 of these regulations. Plats and deed language shall include suitable “Right to Farm” and/or “Right to Forest Management” language to warn future owners about nearby (present or future) agricultural or forest management operations.
- 711.04 Residential uses and wells shall be sited so as to minimize conflicts with adjoining agricultural operations. Buffer zones a minimum of 100 feet from residences and residential wells to the lot lines of agricultural operations may be required unless a smaller setback can be demonstrated to have no adverse impact.
- 711.05 Lot dimensional standards may be reduced per approval of the Development Review Board in order to minimize fragmentation of viable agricultural or forestry uses.
- 711.06 Building envelopes on new lots should be sited away from the most productive agricultural or silvicultural soils, or in such a manner that minimizes fragmentation of the original tract.
- 711.07 Driveways and private rights of way should be located nearest the new lot(s) in order to minimize fragmentation of the original tract. The Development Review Board reserves the right to require a shared driveway or private right of way in order to minimize fragmentation of agricultural or silvicultural use on the original lot.

§ 712: Waivers

- 712.01 Where the Development Review Board finds that, due to special circumstances of a particular Plat, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed

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subdivision; it may reduce or waive such requirements, subject to appropriate conditions.

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

ARTICLE VIII: PLANNED UNIT DEVELOPMENT

§ 801: Purpose

801.01 In accordance with the provisions of 24 VSA 4417, Planned Unit Developments are hereby permitted to enable and encourage flexibility and innovation of design and development of land. Specifically, the purposes of planned unit development under these regulations are to:

- A. Carry out the purposes of the Sutton Town Plan, as set forth in the plan's stated goals, policies, and objectives;
- B. Promote the most appropriate and efficient use of land;
- C. Facilitate the adequate and economical provisions of streets and utilities, to maximize energy conservation;
- D. Preserve the natural and scenic qualities of the open land of the Town;
- E. Minimize the fragmentation of productive forest and farmland;
- F. Provide for village-scale development, including affordable housing, in appropriate locations.

801.02 In order to achieve the purposes in 801.01, the Development Review Board is hereby empowered to modify these zoning district density and dimensional requirements under these regulations concurrently with conditional use approval under § 208 or final subdivision plat approval under § 705.

§ 802: Applicability

802.01 All applications for planned unit development shall be reviewed by the Development Review Board to determine if the proposed planned unit development meets the objectives outlined 801.01, as well as the development standards in applicable zoning districts and overlay districts.

- A. A proposed planned unit development that requires subdivision of land shall be reviewed in accordance with the procedures and standards outlined in Article VII (Subdivision Review) of these regulations. PUD approval will be issued concurrently with the final subdivision plat approval.
- B. A proposed planned unit development that requires no subdivision of land shall be reviewed as a Conditional Use in accordance with the procedures and standards

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outlined in § 208 of these regulations. PUD approval will be issued concurrently with conditional use approval.

802.02 For purposes of these regulations, the following types of planned unit development may be considered:

- A. Mixed Use PUD: Incorporates a mix of uses normally allowed in the zoning district where the development is located, and is intended to maintain and reinforce traditional development patterns. Mixed use planned unit developments may or may not involve the subdivision of land, or condominium style development. They are allowed in the Village District and in the Residential District.
- B. Conservation PUD: Clusters development to protect open space, the town's rural character, and avoids the fragmentation of Sutton's working agricultural and forestry lands. Conservation planned unit developments are allowed in all districts as may be appropriate, but are specifically encouraged in the Working Lands District and the Rural District.

802.03 To encourage integrated master planning, a planned unit development may incorporate multiple adjoining properties in common ownership, or in separate ownership if a joint PUD application is filed by all participating property owners. One contact person shall be identified on a joint application to coordinate development review proceedings with all participating property owners and to facilitate communications with the Town.

§ 803: Application Requirements

803.01 In addition to the submittal requirements normally required under Article VII or § 208 of these regulations, an application for Planned Unit Development shall contain a master plan of the proposed development, legibly drawn to scale on sheets of no more than 24" by 36" outside measurement, depicting the following:

- A. Property and lot boundaries;
- B. Location, height, and spacing of existing and proposed structures at buildout;
- C. The location, extent and intended use of designated open spaces areas;
- D. Streets, driveways and off-street parking, unloading and service area;
- E. Utility lines, storm and natural drainage, and septic systems;
- F. Proposed lighting; and
- G. Such other features as the Development Review Board may require, such as areas set aside for agriculture or forestry uses.

803.02 The application shall also be accompanied by a narrative statement that includes the following:

- A. The nature of all proposed modifications, changes, or supplements to the existing regulations, including, but not limited to increases in the allowed density of development and requested changes to district dimensional standards.

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- B. Overall level or intensity of development at buildout, including the maximum number of households, residents, or occupants, trip generation rates, and the maximum design capacity of buildings and infrastructure.
- C. A schedule for the phasing of development in relation to the available capacity of existing and planned infrastructure and facilities intended to serve the proposed development.
- D. For projects that include affordable or senior housing, associated administrative and legal agreements to ensure their availability to qualified households and long-term affordability (which shall be at a minimum of 15 years from the date of construction).
- E. Proposed measures to mitigate or offset adverse impact of concentrated higher density or clustered development on natural, agricultural, or forestry lands within and in the immediate vicinity.
- F. Evidence of established and proposed ownership patterns and interests in the coordinated, integrated and cohesive development of the proposed project.

§ 804: General Standards

- 804.01 The proposed planned unit development shall concentrate or cluster development on the most physically developable portion of the lot(s) in conformance with these regulations; and excludes from development areas of very steep slope of 25% or more, flood hazard areas, surface waters, wetlands and associated buffers.
- 804.02 The proposed planned unit development shall not eliminate existing eligibility for enrollment in tax abatement programs, such as Vermont Current Use program.
- 804.03 The proposal shall be an effective and uniform treatment of the development possibilities of the project site, including common ingress and egress on and off public roads whenever practicable. The proposed development plan shall make appropriate provision for the preservation and stabilization of flood hazard areas, streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, agricultural lands, and unique, natural and man-made features.
- 804.04 Common ingress and egress on and off public roads shall be accessible by dry land, outside of flood hazard areas as defined in Article V of these regulations.
- 804.05 The proposal shall be consistent with the Sutton Town Plan and all applicable bylaws.
- 804.06 Mixed uses shall be arranged to be compatible and to insure visual and aural privacy for residents of the project.
- 804.07 The development plan may be phased over a reasonable period of time in order that adequate facilities services, and infrastructure may be provided.
- 804.08 Uses shall be limited to those permitted and conditional uses allowed within the district(s) in which the PUD is proposed.
- 804.09 Density may vary within the PUD, but the overall density shall not exceed what would be permitted, if the land were developed in conformance with the zoning regulations for

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the district(s) in which the PUD is proposed, unless density bonuses are granted in accordance with § 807 of these regulations. Calculation of the allowed overall density of development shall be based on total parcel(s) acreage, excluding existing and proposed road rights-of-way, and lot size and density requirements for the zoning district(s) in which the development is located. Accessory dwelling units shall not be included in density calculations.

- 804.10 The Development Review Board may allow for a greater concentration of density or intensity of residential land use, within some section(s) of the development than upon others, which shall be offset by a lesser concentration in any other section.
- 804.11 Non-contiguous PUD: Planned unit development may be established on non-contiguous lots using density averaging calculated in accordance with 804.09.
- 804.12 PUD in two or more zoning districts: If the planned unit development involves two or more zoning districts, the allowed overall density of development shall be the sum of the allowed density for each area of the planned unit within a particular zoning district, using the density and dimensional standards of that district. Density shall then be transferred from those areas within the lower density districts to developable portions within the higher density zoning districts.
- 804.13 Roadways, parking and unloading facilities shall be designed and constructed so as not to cause unreasonable highway congestion or unsafe traffic conditions. Where possible, no roadway shall have a grade at any point in excess of 10 percent.
- 804.14 Signs not attached to buildings shall be consolidated in one location on the property, and be of uniform size, shape, and design. Signs attached to buildings shall be of comparable design with the consolidated signs.
- 804.15 The outdoor storage of raw materials or inventory shall be screened or hidden from public highway view, or the view of persons in residential districts.
- 804.16 Any central or community sewage disposal and water supply systems shall comply with all applicable State regulations. Final approval of PUD shall be conditioned on demonstrated compliance with said regulations.
- 804.17 The proposal shall provide for the preservation of open space. Open space shall be in a location or locations, size, and shape approved by the Development Review Board and shall be sited and preserved in accordance with § 805 of these regulations.
- 804.18 Performance Bond: The Development Review Board may require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvements that the Development Review Board may require in approving the project, such performance bond to be submitted prior to commencement of the approved plan.

§ 805: Open Space Standards

- 805.01 All planned unit development shall incorporate designed open space areas, as depicted on the site plan or subdivision plat, that are appropriate to the type, location, and purpose of the planned development.

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- A. Mixed Used Open Space: May include one or more common greens, playgrounds, pocket parks, community gardens or other more formal open space areas for use by the residents or the general public. At minimum of 15% of the gross area of a Mixed Use PUD shall be reserved as designated open space.
- B. Conservation Open Space: A minimum of 50% of a Conservation PUD shall be reserved as designated open space. To the extent physically feasible, designated open space shall be contiguous with and functionally connected to adjacent undeveloped open space or conserved areas to limit the fragmentation of conserved resources. A Conservation PUD shall not eliminate eligibility for enrollment in tax abatement programs, such as the Vermont Current Use program.

805.02 Designated open space shall be of a character, size, extent, and shape suitable for its intended purpose or use. Designated open space areas shall not include building lots, road rights-of-way, access, or parking areas.

805.03 Designated open space may be held in common or single ownership to include:

- A. Ownership by nonprofit community association, corporation, legal partnership, or cooperative organized under the laws of Vermont that is responsible for the maintenance of all open space, as well as roadways, and other common elements of the development.
- B. Dedication of designated open space through conveyance of land or interests in land, to a public or nonprofit entity acceptable to the Development Review Board, such as the Town of Sutton, a state or federal agency, or a land trust.
- C. Subdivision plat or deed restriction or other legal means as approved by the Development Review Board recorded in the Town of Sutton Land Records. Such restrictions shall specify that no further subdivision or development may occur; and may contain suitable “right to farm” or “right to forest” language in order to alert nearby owners about present or future forestry or agricultural operations.

805.04 Designated open space shall be managed by the owner for its intended purpose and use, as approved by the Development Review Board. The Board may require the submission of a long-term management plan for the protection and sustainable management of conserved resources.

805.05 No future development of designated open space shall be allowed except as incidental to its intended use.

§ 806: Density Bonuses

806.01 The Development Review Board, at the request of the applicant, may grant one or more density bonuses. These bonuses shall not increase the overall density as determined according to the standards in § 804 by more than 100 percent.

- A. A density bonus of up to 50% may be considered for planned unit development that meets the definition of affordable housing development as defined in Article XI in these regulations, or determined from current federal housing and income data, for at least 15 years from the date of construction.

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- B. A density bonus of up to 50% may be considered for planned unit development that meets the definition of senior housing development as defined in Article XI in these regulations, or determined from current federal housing and income data, for at least 15 years from the date of construction.
- C. A density bonus of up to 50% may be considered for Conservation PUD that incorporates open space designated under § 806 of these regulations of at least 60% of the lot(s) in areas outside of the Working Lands District and 80% of the lot(s) in the Working Lands District.

806.02 In order for the Development Review Board to grant one or more density bonuses, the applicant shall:

- A. Clearly document that the developable portion of the lot(s) and supporting roads, infrastructure, utilities and services can accommodate higher densities of development; and
- B. Incorporates measures in development design necessary to mitigate adverse impacts of higher density development on designated open space areas and conserved resources, adjoining properties, and the character of the area affected by development.

ARTICLE IX: ADMINISTRATION AND ENFORCEMENT

§ 901: Zoning Administrator

The Zoning Administrator shall be appointed to administer the zoning regulations pursuant to 24 VSA, § 4448. Said officer shall literally enforce the provisions of these regulations and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. Appeals from any decision or Act taken by the Zoning Administrator shall be made as provided for in 24 VSA, Chapter 117, Subchapter 11. An acting Zoning Administrator may be appointed pursuant to 24 VSA, § 4448(b).

§ 902: Zoning Permits

- 902.01 No land development, as defined in 24 VSA, § 4303(10) of the Act, may be commenced without a permit issued by the Zoning Administrator. No zoning permit may be issued by the Zoning Administrator except in conformance with these regulations.
- 902.02 Applications for zoning permits shall be made to the Zoning Administrator on forms provided for that purpose.
- 902.03 Prior to the issuance of any zoning permit the Zoning Administrator shall first satisfy himself that the subject of the application is in conformance with these regulations. He may enter upon the land or premises of an applicant and may request from an applicant any information he deems necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan and any other approvals of the Development Review Board required by this bylaw have been properly obtained and are submitted in connection with the application. The Zoning Administrator shall, within 30 days of submission of a complete application, data and approvals, either issue or deny a zoning

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permit. If denied, the Zoning Administrator shall so notify the applicant in writing, stating his reasons therefore. If a zoning permit is issued, all activities authorized by its issuance shall be completed within two years of its date of issue, or the zoning permit shall be null and void and reapplication to undertake any activities shall be required.

- 902.04 In the issuance of zoning permits, the Zoning Administrator shall comply with all of the provisions of 24 VSA, § 4449.
- 902.05 The fee for a zoning permit shall be established by the Legislative Body. It may be a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.
- 902.06 No zoning permit issued pursuant to 24 VSA, § 4449 shall take effect until the time for Appeal in 24 VSA, § 4465(a) has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.
- 902.07 No zoning permit shall be necessary for any structure that is 100 square feet or smaller that is not located on a permanent foundation, provided the structure is located outside of flood hazard areas as defined in Article V of these regulations.

§ 903: Penalties

Any violation of these regulations after the effective date thereof shall be subject to penalties as provided in 24 VSA, §§ 4451 and 4452 .

§ 904: Development Review Board

- 904.01 The Development Review Board shall consist of not fewer than five (5) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with 24 V.S.A. [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Development Review Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Selectboard upon written charges and after public hearing.
- 904.02 The Development Review Board may employ or contract for clerks, secretaries, legal counsel, consultants and other technical and clerical services. All members of the board may be compensated for the performance of their duties, and may be reimbursed by the municipality for necessary and reasonable expenses.
- 904.03 The Development Review Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.
- 904.04 The Development Review Board shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
- A. Appeals from any decision, act, or failure to act by the Zoning Administrator, as described in § 907 of these regulations and any associated variance requests, as described in § 908 of these regulations;

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- B. Applications for site plan approval, as described in § 207 of these regulations;
- C. Applications for conditional use approval, as described in § 208 these regulations;
- D. Applications for rights-of-way or easements for development lacking frontage, as described in §302 of these regulations;
- E. Applications for subdivision approval, as described in Article 7 of this bylaw;
- F. Applications for conditional uses with flood hazard areas, as described in Article 5 of this bylaw; and
- G. Applications for planned unit developments, as described in Article 8 of this bylaw.

§ 905: Public Notice

Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:

- 905.01 Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.
- 905.02 Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 VSA § 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. Posting in view from the right-of-way shall be clearly visible from all public approaches. Said posting will be done by the Zoning Administrator.
- 905.03 Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. 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.
- 905.04 When notification of abutting property owners is required by § 905.03, such notice shall be the responsibility of the applicant and the applicant shall submit proof of such notification to the Development Review Board. The applicant shall provide acceptable proof of notification, which shall include return receipt cards, a signed affidavit from each abutting property owner indicating that they received the required notice, or if the abutter refuses notice, proof of mail delivery to the abutter's last known mailing address accompanied by sworn certificate of service.

§ 906: Decisions of the Development Review Board

- 906.01 In accordance with 24 V.S.A. §4464(b), the Development Review Board shall issue all decisions within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.

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- 906.02 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 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.
- 906.03 In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement these regulations and the town plan currently in effect.
- 906.04 All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

§ 907: Appeals

- 907.01 Appeals of decisions made by the Zoning Administrator may be made in the following manner:
- A. An interested person, as defined in 24 VSA, § 4465, may appeal any decision or act taken by the Zoning Administrator in any municipality by filing a notice of appeal with the secretary of the Sutton Development Review Board or with the Sutton Town Clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.
 - B. A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.
 - C. The Sutton Development Review Board shall set a date and place for a public hearing of an appeal that shall be within 60 days of the filing of the notice of appeal. The Sutton Development Review Board shall give public notice of the hearing and shall mail to the appellant a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by 24 VSA, § 4465 to take an appeal with respect to the property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. Any hearing held under this section may be adjourned by the Sutton Development Review Board from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings under this section shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 VSA § 810.

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907.02 Appeals of decisions made by the Development Review Board may be made in the following manner:

- A. An interested person who has participated in a public hearing held in the Town of Sutton with regard to an application for a permit authorized under this bylaw may appeal a decision rendered by Development Review Board to the Environmental Court. Participation in such a public hearing shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the hearing. An appeal from a decision of the Development Review Board shall be taken in such manner as the Supreme Court may by rule provide for appeals from state agencies governed by 3 VSA, §§ 801 through 816.
- B. Notice of the appeal shall be filed by certified mail, with fees, to the Environmental Court and by mailing a copy to the municipal clerk or the Zoning Administrator, if so designated, who shall supply a list of interested persons to the appellant within five 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, and, 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.

§ 908: Variances

The Development Review Board shall hear and decide requests for variances in accordance with 24 V.S.A. §4469(a) and appeal procedures under § 907 of these regulations. In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the Town Plan currently in effect. The Development Review Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- A. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topography or other physical conditions peculiar to the particular property, and the unnecessary hardship is due to the conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
- B. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
- C. The unnecessary hardship has not been created by the appellant;
- D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

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- E. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

ARTICLE X: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

§ 1001: Amendments

These regulations may be amended according to the requirements and procedures established in 24 VSA, §§ 4441 and 4442.

§ 1002: Interpretation

1002.01 In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

1002.02 It is not the intent of these regulations to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulation permit, easement, or agreement, the provision of these regulations shall control.

§ 1003: Effective Date

This bylaw shall take effect 21 days after adoption in accordance with the procedures set forth in 24 VSA, §§ 4441 and 4442.

§ 1004: Separability

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

§ 1005: Repeal

Upon the date of adoption of this bylaw, the former Town of Sutton Zoning Bylaw, adopted March 2, 1976, revised January 7, 1992, and further revised August 23, 2005 is hereby declared repealed and shall have no further force or effect.

ARTICLE XI: DEFINITIONS

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

§ 1101: Word Definitions

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

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

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

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

The word lot includes the words plot or parcel.

The word “he” and similar gender-specific words are to be considered gender-neutral.

§ 1102: Term Definitions

Accessory Structure: Means a structure which is 1) detached from and clearly incidental and subordinate to the principle 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: A use or customarily incidental and subordinate to the principal use or structure and located on the same lot.

Acre: One acre equals 43,560 square feet.

Agriculture: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste produced on the farm; or the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

Area of Special Flood Hazard: Is synonymous in meaning with the phrase “special flood hazard area” for the purpose of these regulations.

Base Flood: Means the flood having a one percent chance of being equaled or exceeded in any given year.

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.

BFE: See Base Flood Elevations

Basement: Means any area of the building having its floor subgraded (below ground level) on all sides.

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Bed & Breakfast: A building serving as a dwelling unit which has the capacity to provide overnight accommodations, as well as a morning meal to transient guests for compensation.

Building: Means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

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

Channel: Means an area that contains continuous or periodic flowing water that is confined by banks and a streambed.

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

Commercial Accommodation: A building in which the rooms are rented with or without meals to four or more persons for profit. This shall include commercial establishments such as hotels, motels, bed and breakfasts, lodges, boarding houses and similar establishments.

Commercial, Use: Any area of land, including structures thereon, that is used or designed to be used for the sale or storage of goods and merchandise, the transaction of business, or the provision of services or entertainment.

Campground: A plot of ground upon which two or more campsites are located, established; which may accommodate tents, travel trailers, or yurts; and are maintained for occupancy by camping units of the general public as temporary living quarters for recreation, educational, or vacation purposes.

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

Class I Industry: See Industry, Class I

Class II Industry: See Industry, Class II

Common Plan of Development: Is where a structure will be refurbished over a period of time. Such work might be planned by unit.

Critical Facilities: Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing home, 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.

Daily Trip Generation: The total number of vehicle trips produced by a specific land use or activity in a single day. For purposes of this bylaw, trip generation is determined in the §111 permitting process for uses that access a state highway. Trip generation for other developments,

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depending on the scale, may be determined through the Institute of Transportation Engineers Trip Generation Handbook, or it may be based on experience from similarly sited uses in the region.

Daycare Center: An establishment where the owner or operator is to be licensed or registered by the State of Vermont for child care, operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six full-time and four part-time children under the age of 16 outside of their homes for periods of less than 14 hours per day by a person other than a child's own parent, guardian or relative. For the purposes of this bylaw, "Day Care Center" also means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six adults with physical, emotional or cognitive impairment outside of the adult's home for periods of less than 24 hours per day by persons other than the adult's parent, guardian or relative.

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

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

Development: Means any man-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.

Dwelling, accessory: A dwelling unit that is located within or appurtenant to an owner-occupied 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.

Dwelling, single family: A detached dwelling unit designed for and occupied by one family only.

Dwelling, Multi Family: A building designed for and occupied by three or more families living independently of each other in individual dwelling units. **Dwelling, Two Family:** A building designed for and occupied by two families living independently of each other in individual dwelling units.

Dwelling Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. It shall include prefabricated or modular units but shall not include motels, hotels, boarding houses or similar uses or structures.

Essential Service: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, boxes, police call boxes, traffic signals, hydrants, street signs and similar equipment and accessories in connection therewith, and including

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buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Extraction of Earth Resources: Excavation and removal of rock, stone, ore, sand, gravel, soil, minerals, and similar materials from the surface or subsurface.

Family: One or more individuals occupying a dwelling unit and living as a single household unit.

Fences: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

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

Final Subdivision Plat: The final drawings, on which the developer's plan of subdivision is presented to the Commission for approval and which, if approved, may be filed for record with the Town Clerk.

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 was 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 a flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Hazard Boundary Map (FHBM): Means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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, 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").

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Flood Proofing: Means any combination of structural and nonstructural 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 a designated height.

Floodway, Regulatory in the Town of Sutton: 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: Is erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Functionally Dependent Use: Means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Forestry: Any use directly related to the raising or harvesting of timber.

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.

Grade, Finished: Completed surfaces of grounds, lawns, walks, paved areas and roads brought to grades as shown on plans relating thereto.

Gross Area: The entire portion of a parcel, including areas that are deemed unbuildable due to factors such as steep slopes, wetlands, and poor soils.

Health Clinic: An establishment where patients are admitted for examination and treatment on an outpatient basis by physicians, dentists, other medical personnel, psychologists, or social workers

Home-Based Industry: A business conducted by the resident(s) of a single-family dwelling, and not more than four full time equivalent non-resident employees, which is carried on within the principal dwelling and/or an accessory structure, and otherwise meets the requirements of this bylaw.

Home Occupation: Any commercial use conducted within a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

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Home Office: A self-employment activity conducted entirely within a minor portion of a principal dwelling or within an existing accessory structure which is carried on by a resident of that dwelling, and involves no signs, retail sales, public access or outdoor storage or displays.

Industry: The assembling, manufacturing, compounding, processing, packaging, treatment, or testing of materials, goods, or products.

Industry, Class I: An industrial use that is entirely enclosed within a principal structure no larger than 10,000 square feet and meets the performance standards of these regulations.

Industry, Class II: An industrial use sited on a lot that is no smaller than two acres, that has a gross floor area covering no more than 30% of the buildable area the lot, and meets the performance standards of these regulations.

Integrated Agriculture –Agricultural operations that include activities that may not be directly related to the agricultural use. Such activities need not be subordinate to the agricultural operation in terms of revenue, but shall be subordinate in terms of overall land use (e.g., land area, structures utilized). Activities must fall within one or more of the following categories:

- Retail sales of crops or farm products not principally produced on the farm.
- Retail sales of non-farm products related to the farm and/or what is produced on the farm. Such retail sales of non-farm products must be clearly subordinate to the farming operation and/or other integrated uses.
- Education, cultural, recreation programming – e.g., classes, day camp, etc.
- Event hosting as long as such events are clearly subordinate to the farming operation – e.g., wedding venue, dinner/dance venue, theater production, etc.

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

Land Surveyor: A surveyor licensed by the State of Vermont.

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

Lodging House: A facility in which rental accommodations are provided to non-transients and in which meals also may be supplied as part of the rent.

Lot: Land occupied or to be occupied by a building and its accessory building, together with the required open spaces, having not less than the minimum areas, width and depth required for a lot in the district in which such land is situated, and having frontage on a public road, or other means of access as may be determined by the planning commission to be adequate as a Condition of the issuance of a zoning permit. A lot may consist of:

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- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these regulations.

Lot Area: Total area within the property lines of a lot excluding any part thereof lying within the boundaries of a public road, or proposed public road, or easement or right-of-way for access to the lot.

Lot Line: Property lines bounding a lot.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

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 (National Flood Insurance Program regulations).

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 connected 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.

Manufacturing: Any assembly, manufacture, compounding, processing, packing, treatment or warehousing of goods and products.

Mobile Home Park: Land on which two or more mobile homes are parked and occupied for living purposes.

Mobile Home Space: A plot of ground within a mobile home park designated for the accommodation of one mobile home.

New Construction: For purpose of these bylaws, 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.

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Nonconforming Lots or Parcels: 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 Zoning Administrator.

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Nonconforming Use: 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 Zoning Administrator.

Non conformity: Means a nonconforming use, structure, lot, or parcel.

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

On-farm processing: The practice of transforming crops or livestock grown or raised on the premises into a new and different product. For purposes of this bylaw, this definition includes value-added processing, cooking, baking, curing, heating, canning, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, preserving, dehydrating, freezing, and repackaging. For purposes of this definition “on-farm processing” does not include composting.

Personal Services: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, including, but not limited to dry cleaning, beauty and barber shops, shoe repair, dry cleaning drop off and pick up, and spas.

Preliminary Subdivision Sketch: The preliminary drawings indicating the proposed layout of the Subdivision to be submitted to the Commission for its consideration.

Public Assembly Use: Usage by agencies and departments of local, county, state and federal government.

Public Facility: Usage by agencies and departments of local, county, state and federal government.

Raising of livestock as accessory use: The raising, feeding, and management of no more than the following numbers of adult animals: three equines; four cattle or American bison; fourteen swine; fourteen goats; fourteen sheep; fourteen fallow deer; fourteen red deer; forty-nine turkeys; forty-nine geese; ninety-nine laying hens; one-hundred and forty-nine broilers, pheasant, Chukar partridge, or Coturnix quail; two camelids; three ratites (ostriches, rheas, and emus); twenty-nine rabbits; ninety-nine ducks; or nine hundred and ninety-nine pounds of cultured trout.

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Recreation, Outdoor: Includes a playground, park, golf course, swimming pool, beach, skating rink, tennis court or similar place of outdoor recreation.

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 temporary living quarters for recreational; camping, travel, or seasonal use.

Road Frontage: The distance between those lines connecting the front and rear lot lines at each side of the lot, measured along the public road right-of-way upon which the lot abuts or along the means of access to the lot.

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

Road, Public: Publicly owned and maintained right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

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

Sign: Any object, device, display, or structure, or part thereof that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business product, service, event, or location by any means including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. For purposes of this bylaw, this definition excludes political campaign signage (as regulated by 17 V.S.A. §2892), national and state flags, or temporary signs associated with construction or the sale of real estate.

Sign Area (or Sign Face): The area or display surface used for the message.

Sketch Plan: A sketch of the proposed subdivision showing the information necessary for the developer and the Planning Commission to reach general agreement as to the form of the subdivision and objectives and requirements of these regulations.

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 labelled Zone A, AE, AO, AH, 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 Maps.

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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 the 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; not 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 structure part of a building, regardless of whether that alteration affects the external dimensions of the building.

Street: Any road, highway, avenue, street, parkway, lane or other way between right-of-way lines, commonly used by the public for street purposes.

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.

Subdivision: The division of any parcel of land, other than for agricultural or forestry purposes, with or without streets into two (2) or more lots, plots, or other legal division of land for immediate or future transfer of ownership.

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 after the date of adoption of this bylaw, the cost of which, over three years, or over 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: Means the vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of the slope.

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Use, Permitted: Any use specifically allowed in a district subject to the issuance of a permit by the Zoning Administrator.

Use, Conditional: Any use specifically allowed in a district subject to the issuance of a conditional use permit by the Board of Adjustment following a public hearing.

Village District: The north boundary shall be a straight line from Nichols' driveway through the indicated point on Sutton Station Road (TH #24) to the northeast corner of the cemetery and along the cemetery line to Underpass Road (TH#2). From this point the boundary shall extend southerly to the site of the old town garage on Sheffield Road (TH# 3) and then to the junction of Wheelock Road (TH#38) and Sutton Hollow Road (TH#39). Sutton Hollow Road (TH#39) shall form the balance of the south boundary line. The east boundary shall be the first driveway (Nichols' driveway) on the left heading out of the village on Burke Road (TH#2) toward West Burke and will extend south along the driveway to Burke Road and then south to the intersection of Calendar Brook Road (TH#1) and Sutton Hollow Road (TH#39).

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.

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

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

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

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