NORTH HERO DEVELOPMENT REGULATIONS

As Approved by the Voters of North Hero
August 26, 2014

Amended by the Voters of North Hero
March 7, 2023

Amended by the North Hero Selectboard
December 1, 2023

Amended by the North Hero Selectboard
January 19, 2026

Prepared by the North Hero Planning Commission, with assistance from the Northwest Regional Planning Commission.

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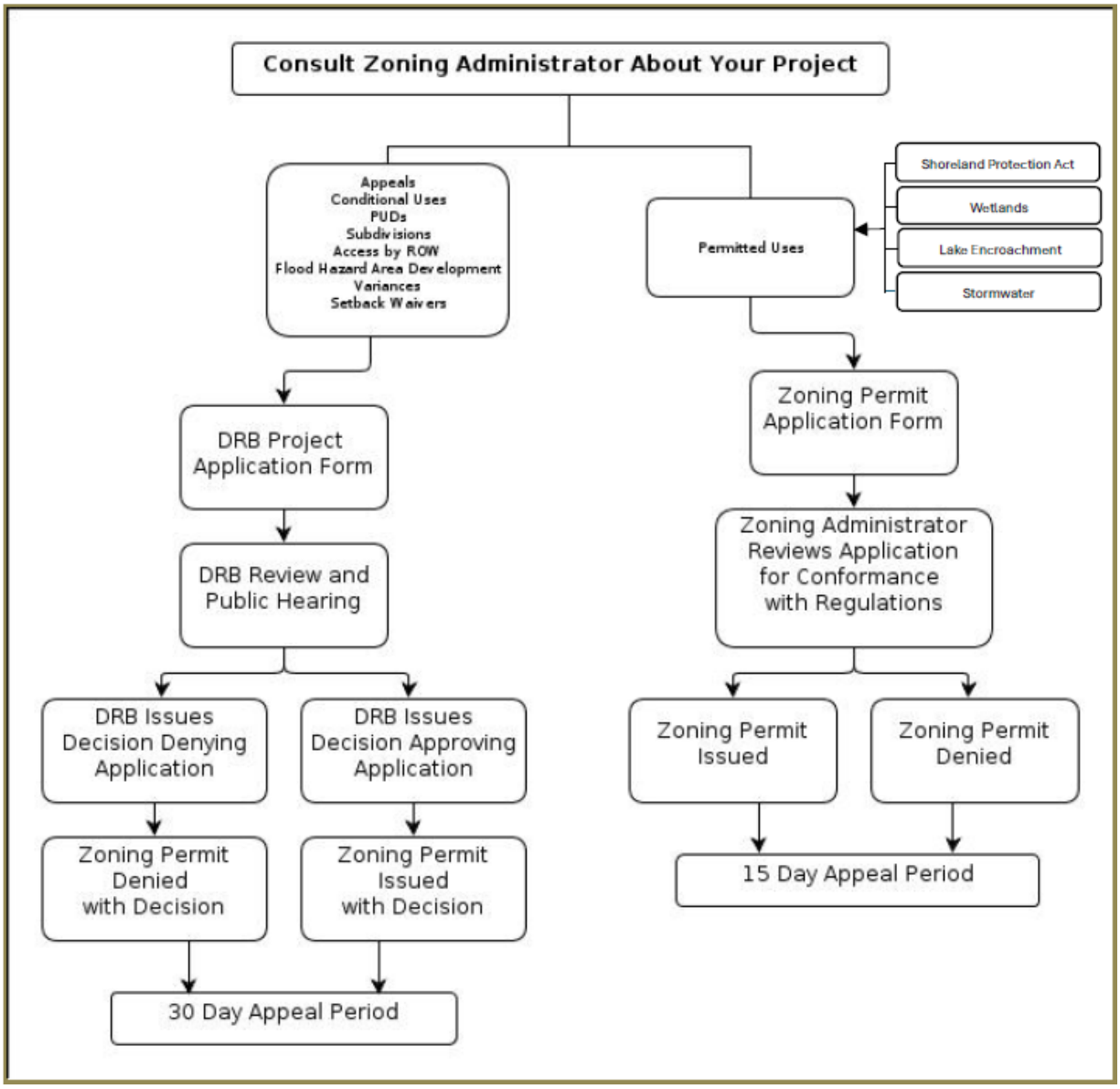
Reference Materials

1) The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117 V.S.A (The Act).
2) Accepted Agricultural and Best Management Practices as adopted in rules by the Agency of Agriculture.
3) Vermont Rail Garden Plant List
4) Elmore Roots Vermont Native Plant List
5) The Vermont Invasive and Exotic Plant Committee's List
6) Vermont Stormwater Management Manual
7) Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites
8) Homeowners Guide Booklet: “SHARING THE EDGE, A Guide for Lakeshore Property Owners in Vermont”. https://dec.vermont.gov/content/sharing-edge-guide-lakeshore-property-owners-vermont
9) Shoreland Best Management Practices: a.) *Infiltration Steps, b.) Turnouts and Rock Aprons, c.) Infiltration Trench, d.) Waterbars, e.) Vegetative Buffers, f.) Drywell, g.) Natural Plant Communities h.) Rain Garden, i.) Vegetated Swells.* *https://dec.vermont.gov/watershed/lakes-ponds/permit/shoreland/appresources/shoreland-bmps#:~:text=Under%20the%20Shoreland%20Protection%20Act,Turnouts%20and%20rock%20aprons*
10) Vermont Lakewise Program Native Plant List: Native plants recommended for Vermont lakeshore vegetative best management practices. https://dec.vermont.gov/document/lake-wise-info-sheet-native-plant-list

11) A Guide to Healthy Lakes Using Lakeshore Landscaping Design: templates and easy-to-use planting plans. https://dec.vermont.gov/sites/dec/files/wsm/lakes/Lakewise/docs/lp_VTlakescape.pdf
12) Vermont BioEngineering Manual: A Technical Manual for Lakeshore Contractors and Homeowners. https://dec.vermont.gov/content/vermont-bioengineering-manual
13) Special Flood Hazard Overlay Map reference 102' contour. When available.

Figure 1.1 How to Get a Zoning Permit: At a Glance



ARTICLE 1: AUTHORITY AND PURPOSE

SECTION 1.1: ENACTMENT

The North Hero Development Regulations set forth in the following text and map are hereby established pursuant to the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117 (hereinafter referred to as the "Act").

SECTION 1.2: PURPOSE

The intent of these Regulations is to ensure the health, safety and welfare of the community, provide for orderly community growth and to further the purposes established in the North Hero Town Plan and in the Act.

SECTION 1.3: APPLICATION OF REGULATIONS

No land development shall take place unless in compliance with the North Hero Development Regulations. For the purposes of these regulations, land development includes land development as defined by §4303 of the Act and development as defined in Section 10 Flood Hazard Overlay District.

Development within the area covered by the Vermont Shoreland Protection, US Army Corp of Engineers, Vermont Wetland Rules, Special Flood Hazard Area, and other local, state, or federal jurisdictions may require a permit. Local permits require the applicant to obtain applicable state and federal permits. The applicant must contact the appropriate regional permit specialists. State of Vermont permit requirements can be found at: Vermont Agency of Natural Resources – Active Permit Program.

Vermont Agency of Natural Resources – Active Permit Programs *Please consult a Community Assistance Specialist or the ANR Permit Navigator to confirm whether a permit is required. https://dec.vermont.gov/assistance/permits/permit-navigator*	
The most common permits that may be required:	
Permit Program	**For more information**
Lake and Ponds Management and Protection: • Aquatic Nuisance Control • Lake Encroachment Permit • ***Shoreland Protection***	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgudEAC
Rivers/Floodplain: • ***Floodplain and River Corridor*** • Stream Alteration and Stream Crossing Structures	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguhEAC
Stormwater Management: • ***Construction Stormwater Discharge Permit*** • Industrial Multi-Sector Stormwater Discharge Permit • Operational Stormwater Discharge Permit	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgukEAC
Wastewater Systems and Potable Water Supplies (for buildings and houses)	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgunEAC
Wetlands	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguoEAC
Act 250 Permit	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QvArEAK
Other permits that may be required:	
Permit Program	**For more information**
Air Compliance/Field Services: Open Burning Permit	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguXEAS
Air Permitting and Engineering: • Air Pollution Control Permit - Used Oil Burning • Construction/Modification of Source	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguYEAS
Dams	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguZEAS
Fish, Wildlife and Plants – Threatened and Endangered Species	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgueEAC
Groundwater Reclassification or Groundwater Withdrawal	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguaEAC
Hazardous Waste Handler Site ID	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgubEAC
Indirect Discharge: Land Application, Sewage Permit, Underground Injection Control	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgucEAC
Public Drinking Water Systems: • Construction Permit Operating Permit • Source Permit	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgufEAC
Residuals Management and Emerging Contaminants	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgugEAC
Salvage Yards	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QguiEAC
Solid Waste Management: • Composting Facilities • Demolition Waste • Disposal of Inert Waste, Untreated Wood and Stumps • Used Septic System Components/Stone • Waste Transporter Permit	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgujEAC
Underground Tanks	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgulEAC
Wastewater Management Industrial User Pretreatment Program	https://permitnavigator.my.vermont.gov/s/dec-permits?viewAll=true#a0Bt0000004QgumEAC

SECTION 1.4: STATUTORY EXEMPTIONS

Except for development located in the Flood Hazard Overlay District, the following uses and structures are specifically exempted from municipal land use and development regulations by Vermont State law; no municipal zoning permit or approval under these Regulations shall be required. Other state or federal permits may apply.

1) Required agricultural practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets in accordance with the Act (Title 6 §4810) and as adopted in rules by the Agency of Agriculture (see www.vermontagriculture.com). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the ZA prior to any construction as required by the Act. Agricultural practices that are governed by the RAPs include, but are not limited to the following:
   a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
   b) the raising, feeding, or management of livestock, poultry, fish, or bees; or
   c) the operation of greenhouses; or
   d) the production of maple syrup; or
   e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or
   f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or
   g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or
   h) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:
      i) the compost is principally used on the farm where it is produced; or
      ii) the compost is produced on a small farm that raises or manages poultry.
2) Accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices that are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or
3) Forestry operations.

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SECTION 1.5: INTERPRETATION

These Regulations shall not repeal, abrogate or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices). However, in their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements which shall take precedence over any concurrent and less restrictive such

control. It is also hereby stated that in any conflict or dispute involving these Regulations, that the intent shall be considered in resolving any ambiguity.

SECTION 1.6: SEVERABILITY

If any portions of these Regulations are held unconstitutional or invalid by a court of competent jurisdiction, the unaffected portions shall remain in force, and for this purpose the provisions of the Regulations are severable.

SECTION 1.7: AMENDMENTS

These Regulations may be amended according to the requirements and procedures established in 24 V.S.A. §4441 and §4442 of the Act.

SECTION 1.8: APPLICATION UNDER PENDING AMENDMENT TO THESE REGULATIONS

In accordance with 24 V.S.A. §4449(d), once the North Hero Selectboard has issued a public notice to amend these regulations, the Zoning Administrator shall review any new application under both the proposed amendment and applicable existing regulations. If the new bylaw or amendment has not been adopted or rejected within 150 days of that notice or, if the bylaw is rejected, the application shall be reviewed under the existing regulations. An application that has been denied under a proposed bylaw or amendment that has not been adopted, or had been rejected, shall be reviewed again at no cost under the existing regulations at the request of the applicant.

SECTION 1.9: EFFECTIVE DATE

These Regulations take effect upon adoption in accordance with the procedures contained in the Act.

ARTICLE 2: ADMINISTRATION AND ENFORCEMENT

SECTION 2.1: ADMINISTRATION

A) Zoning Administrator (ZA). The Selectboard shall appoint, from nominations submitted by the Planning Commission, a Zoning Administrator (ZA) for a term of three (3) years in accordance with the Act §4448. The ZA is a municipal employee, reporting to the Planning Commission. An acting or assistant ZA may also be appointed by the Selectboard pursuant to the Act. The ZA shall literally administer and strictly enforce the provisions of these Regulations.

B) Development Review Board (DRB). The DRB shall be appointed by the Selectboard in accordance with 24 V.S.A. §4460. The DRB shall work as cooperatively with applicants as possible and shall hear and decide applications for:

1) Appeals of ZA decisions;
2) Conditional Use Review;
3) PUD approval;
4) Subdivision approval;
5) Access by right-of way to lots without frontage;
6) Development in the Flood Hazard Area Overlay District;
7) Variances;
8) Setback Waivers.

SECTION 2.2: FEES

The Selectboard will establish fees for Zoning Permits, Certificates of Occupancy, Certificates of Compliance, and DRB review. Such fee(s) shall include the costs of public notice, public hearings, and site visits. Fees must be paid for applications to be considered complete when approved by the Zoning Administrator. Fees are non-refundable.

SECTION 2.3: ZONING PERMITS ISSUED BY THE ZONING ADMINISTRATOR

A) Within thirty (30) days of receipt of a completed application for land development, including all application materials and fees, the ZA shall issue or deny a Zoning Permit in writing, return the application for completion, or refer the application to the DRB for their review and action. In the case of a referral, the ZA shall issue or deny a Zoning Permit in conjunction with the issuance of a DRB decision. If a Zoning permit is denied, the ZA shall so notify the applicant in writing, stating the reasons for denial. If the ZA fails to act on a complete application by issuance, denial or referral within the 30 day period, the permit shall result in deemed approval.

1) When the ZA issues a Zoning Permit, the applicant shall post a permit notice on the same day, on a form provided by the Town of North Hero, within view of the

public right-of-way most nearly adjacent to the subject property until the applicable time for appeal has passed (see Section 2.5). The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.

2) Within three (3) days following the issuance of a Zoning Permit, the ZA shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period and deliver a copy of the permit to the Listers.
3) Within 30 days after a Zoning Permit has been issued or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall:
   a) deliver the original or a legible copy of the municipal land use permit or notice of violation generally in the form set forth in 24 V.S.A. §1154(c) of this title to the Town Clerk for recording as provided in 24 V.S.A. §1154(a); and
   b) file a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

B) Development within the area covered by the Vermont Shoreland Protection, US Army Corp of Engineers, Vermont Wetland Rules, Special Flood Hazard Area, and other local, state, or federal jurisdictions may require a permit. Local permits require the applicant to obtain applicable state and federal permits. The applicant must contact the appropriate regional permit specialists. Websites for the above include, but are not limited to the following:
   Shoreland Permitting: https://dec.vermont.gov/watershed/lakes-ponds/permit/shoreland
   Wetland Permitting: https://dec.vermont.gov/watershed/wetlands/permit-information
   USACE Regional Office: https://rrs.usace.army.mil/rrs/home/permitting

SECTION 2.4: APPLICATIONS BEFORE THE DRB

A) Public Hearing/Public Notice Requirements for DRB Decisions. A public hearing in accordance with Section 4463(a) and 4464(a) of the Act is required before the DRB may issue any decision. Notice for public hearings shall be given not less than 15 days prior to the date of the public hearing in the following ways:

1) ***Publication*** of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town of North Hero and ***posting*** of the same information in three or more public places within the Town in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

   All public notices will be created by the Town of North Hero. Town personnel will be responsible for all public notice postings.

2) Written notification to the applicant and to owners of all properties adjoining the property subject to development. Adjoining properties include those that are divided by a highway or other public right-of-way. Written 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.

Written notification to the applicant and abutters shall be completed by the Town of North Hero.

B) Continued Public Hearings. The DRB may continue a hearing on any application or appeal pending the submission of additional information affecting the approval under question, provided that the next hearing date, time, and place are announced at the hearing. If a hearing is adjourned, postponed or continued with no date certain, or if a hearing date is changed, the hearing will be reconvened with full notice of the hearing according to 2.4(A) above.

C) DRB Decisions. The DRB shall prepare a written decision for all land development applications referred from the ZA within 45 days after the adjournment of the public hearing. Failure to issue a decision within the 45-day period shall result in deemed approval. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. The decision shall also include a statement of the time within which appeals under Section 2.5 may be taken. The minutes of a meeting may suffice as a decision, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements. In making a decision in favor of the applicant, the DRB may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the Town Plan currently in effect.

Decisions shall be issued according to the following procedure:

1) The Board's decision shall be submitted to the ZA who shall issue or deny a Zoning Permit in accordance with the decision and send the decision along with the Zoning Permit or denial by certified mail to the applicant.
2) Copies of each decision shall also be mailed to every person or body appearing and having been heard as an interested party at the hearing.
3) Copies shall be filed with the ZA and the Town Clerk as part of the public records of the Town, including memorandums of municipal action.

D) Coordinated Review. In accordance with 24 V.S.A. Section 4462, in cases where a proposed project will require more than one type of DRB approval, the DRB may warn and hold a combined hearing for the purpose of reviewing and acting on the proposal. The ZA shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. Notice for a combined review hearing shall be made in accordance with this Section. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:

1) Subdivision Approval (preliminary and final)
2) Planned Unit Development Approval

3) Conditional Use Review
4) Requests for Variances and Setback Waivers
5) Access by Right-of-Way

All hearing and decision requirements, and all deadlines applicable to each review process, shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated for consistency where appropriate.

SECTION 2.5: APPEALS

A) Appealing Decisions of the Zoning Administrator. The applicant or any interested person (as defined in the Act § 4465(b)) may appeal any decision or act taken by the ZA by filing a written Notice of Appeal with the Town Clerk and filing a copy of the Notice of Appeal with the ZA within 15 days of the Act or decision. The Notice of Appeal will not be considered complete without the applicable fee (Section 2.2).

1) A Notice of Appeal filed under this Section shall include the following information in accordance with § 4466 of the Act:
   a) the name and address of the appellant;
   b) a brief description of the property with respect to which the appeal is taken;
   c) a reference to the applicable provisions of these regulations;
   d) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
   e) the alleged grounds why such relief is believed proper under the circumstances.
2) The DRB shall set a date, time, and place for a public hearing on an appeal which shall be within 60 days of filing of the Notice of Appeal according to Section 4465 of the Act. The public hearing shall be warned in accordance with Section 2.4(A) above.
3) In accordance with the Act, Section 4464(b), upon completion of a hearing, the DRB shall render a written decision within forty-five (45) days. Failure to render a decision within the required time period shall result in deemed approval. Copies of the decision shall be sent to:
   a) the applicant (by certified mail);
   b) the appellant (by certified mail);
   c) every person or party appearing and having been heard as an interested party at the hearing;
   d) the ZA; and
   e) the Town Clerk for filing as part of the public records of the Town.

B) Appealing Decisions of the DRB. The applicant or any other interested person who has participated in a municipal regulatory proceeding as defined in the Act Section 4471 may appeal any decision of the DRB within 30 days of such decision to the Vermont Environmental Court.

According to the Act Section 4471(c), within thirty (30) days following the date of decision rendered by the DRB, Notice of Appeal shall be filed by:

1) Certified Mailing, with fees, to the Environmental Court;
2) Mailing a copy to the DRB Clerk, who shall provide a list of interested persons to the appellant within 5 working days; and
3) 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.

SECTION 2.6: VIOLATIONS AND ENFORCEMENT

A) Violations. The commencement or continuation of any land development, subdivision, or use, which is not in conformance with these Regulations, is a violation. Any person who is found in violation of these Regulations shall be fined not more than the amount permitted under the Act § 4451. Each day that a violation is continued shall be a separate offense. All fines imposed and collected shall be paid to the Town of North Hero.

1) Enforcement Remedies. In accordance with the Act § 4452, if any street, building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of these Regulations, the ZA shall institute in the name of the Town any appropriate action, injunction or other proceeding to prevent, restrain, correct, or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. A court injunction may be initiated in the Environmental Court, or as appropriate before the Judicial Bureau, as provided under the Act § 1974a.

2) Notice of Violation. No action may be brought under this section unless the alleged offender has had at least seven days warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven day notice period and within the next succeeding 12 months The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

B) Limitations on Enforcement. North Hero shall observe the 15 year limitation on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§ 4454].

SECTION 2.7 Complaints to the Zoning Administrator

The ZA shall take action on Zoning Complaints within thirty (30) days of receipt of a completed and signed Zoning Complaint Form (ZCF). The ZA action shall be a determination on whether a potential zoning violation exists and reference to the town's

process for enforcing zoning violations per Section 2.6 of these regulations. Appeals of the ZA actions shall be in accordance with Section 2.5 of these regulations.

ARTICLE 3: ZONING DISTRICTS

SECTION 3.1: ESTABLISHMENT OF ZONING DISTRICTS

A) Zoning Districts. The Town of North Hero is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

1) **Village District (V)**. The Village District is located along City Bay extending south to Station Road, west approximately 450 feet from Route 2, and to the north side of Northland Lane. It also extends about 850 feet west along Northland Lane. The Village District is characterized primarily by single and two-family residences, but also includes a mix of commercial, municipal and recreational uses. The density of development is low (2-acre minimum lot size); however, relatively higher than the surrounding Rural District. The purpose of the Village District is to maintain and further this traditional village character.

2) **Rural Lands District (RL)**. The Rural Lands District consists of the balance of land in North Hero that is not designated as Village, Shorelands, Conservation, or Off Islands District. While farming is the primary use in this District, low density residential areas, as well as recreational, commercial and light industrial uses may be approved with careful review by the DRB. Development review shall focus on siting development to maintain the rural character of this District, which consists of open agricultural land with views of Lake Champlain, the Adirondacks and the Green Mountains.

3) **Conservation District (C)**. This District contains all those lands within North Hero requiring the most protection and is composed mainly of low swampy sections serving as cover and habitat for many forms of wildlife. These lands include but are not limited to Class 1 and Class 2 wetlands as defined by the Vermont Department of Environmental Conservation (DEC). These lands may be subject to regulations administered through the Vermont Agency of Natural Resources (ANR). This area is designated as a conservation zone and all development is prohibited.

4) **Shorelands District (SL)**. This District includes all land above the mean water mark of Lake Champlain (elevation 95.5 feet) inland for a distance of five hundred (500) feet. The purpose of the Shoreland District is to preserve water quality, prevent erosion, and regulate the visual character and aesthetic setting of shorelines. Low-density residential development and carefully sited commercial uses are appropriate in the Shorelands District. Building siting should take into consideration the preservation of views and include appropriate landscaping and screening. Land development in the Shorelands District shall comply with Section 7.8 Shoreline Protection.

   Development within the area covered by the Vermont Shoreland Protection, US Army Corp of Engineers, Vermont Wetland Rules, Special Flood Hazard Area,

and other local, state, or federal jurisdictions may require a permit. Local permits require the applicant to obtain applicable state and federal permits. The applicant must contact the appropriate regional permit specialists. Websites for the above include, but are not limited to the following:

Shoreland Permitting: https://dec.vermont.gov/watershed/lakes-ponds/permit/shoreland
Wetland Permitting: https://dec.vermont.gov/watershed/wetlands/permit-information
USACE Regional Office: https://rrs.usace.army.mil/rrs/home/permitting

5) **Off Islands District (OI)**. This District includes several small islands that are only accessible by boat, including: Butler, Knight, Gull, Hen, Diadama (Dameas) and Grand Ma's. In this District, environmental concerns and the availability of Town services make these areas distinct from other areas. Development review should encourage the preservation of public access from North Hero to these islands.

6) **Flood Hazard Overlay District**: The purpose of this district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to flood, and to promote the public health, safety, and general welfare. Designation of this district is also required for continued eligibility in the National Flood Insurance Program. Included are all areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753.

B) Official Zoning Map. The Official Zoning Map for the Town of North Hero shall consist of:

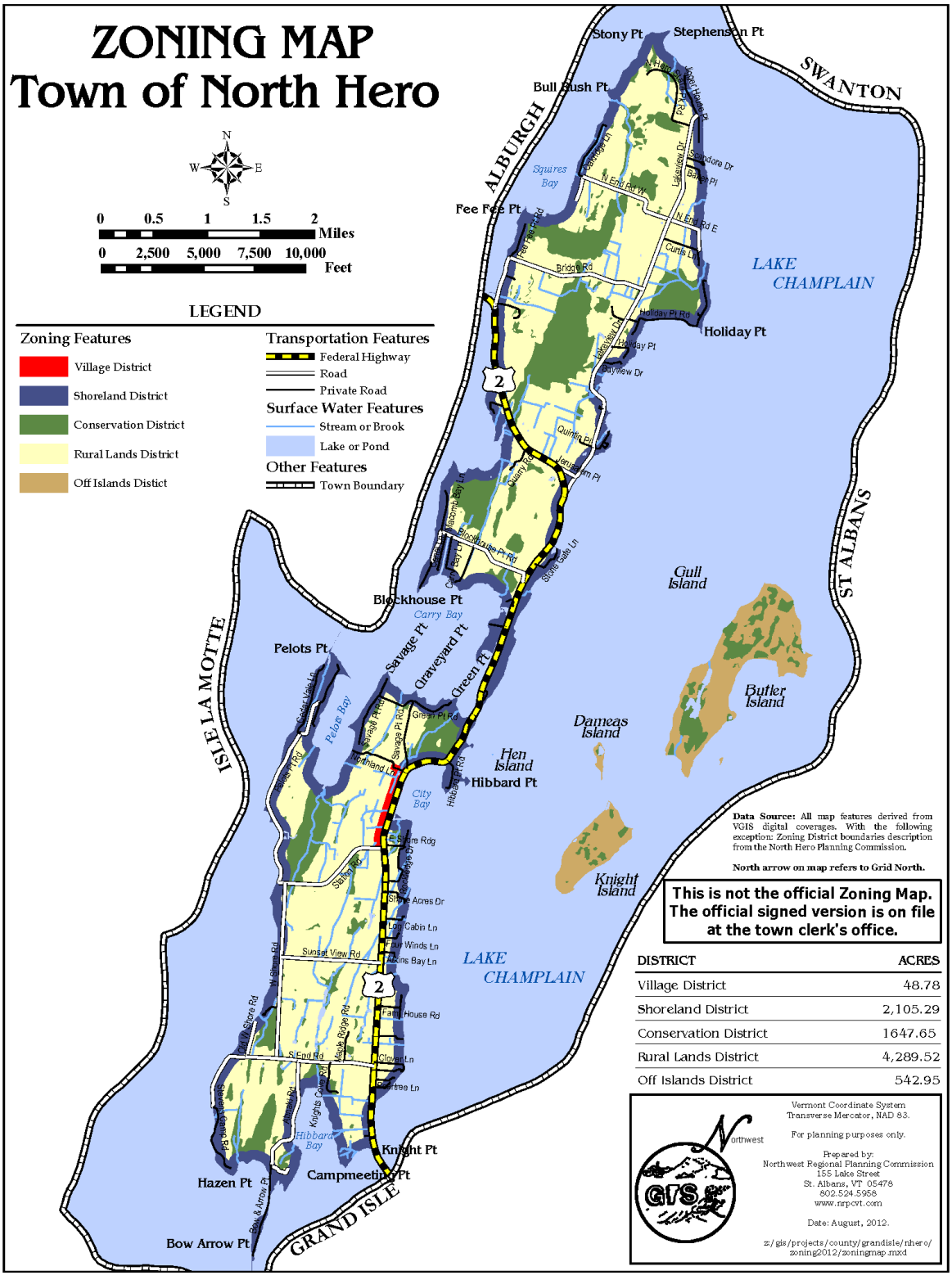
1) The poster sized Town of North Hero Zoning Map located in the Town Clerk's Office[1]. It shall be identified by the signatures of the Selectboard. Regardless of the existence of copies, which may be made from time to time, the signed Official Zoning Map shall be the final authority as to the zoning status of all land and water areas in the Town of North Hero. No changes of any nature shall be made to it except in conformance with the formal amendment procedures and requirements set forth in the Act, Sections 4441 and 4442. A copy of the Zoning Map is included on Page 12.

2) The most current flood insurance studies and maps, published by the Department of Homeland Security (DHS), Federal Emergency Management (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753.

[1] The Official Flood Hazard Overlay District Map shall consist the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753

C) Interpretation of Boundaries. Where uncertainty exists with respect to the boundary of any Zoning District, the following rules shall apply:

1) Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way, shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
3) Boundaries indicated as following shorelines shall be construed as the normal mean water level.
4) Boundaries indicated as parallel to, or as extensions of features in (1), (2), and (3) above shall be so construed.
5) When the ZA cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the DRB shall interpret the district boundaries.


ZONING MAP
Town of North Hero
N
W
E
S
0 0.5 1 1.5 2 Miles
0 2,500 5,000 7,500 10,000 Feet
LEGEND
Zoning Features
Village District
Shoreland District
Conservation District
Rural Lands District
Off Islands Distict
Transportation Features
Federal Highway
Road
Private Road
Surface Water Features
Stream or Brook
Lake or Pond
Other Features
Town Boundary
Stony Pt
Stephenson Pt
SWANTON
Bull Rush Pt
ALBURGH
Squires Bay
Fee Fee Pt
LAKE CHAMPLAIN
Holiday Pt
Gull Island
ST ALBANS
Blockhouse Pt
Carry Bay
Pelots Pt
ISLE LA MOTTE
Savage Pt
Graveyard Pt
Green Pt
Pelots Bay
Butler Island
Dameas Island
Hen Island
Hibbard Pt
City Bay
Knight Island
LAKE CHAMPLAIN
Knight Pt
Campmeeting Pt
Hazen Pt
Bow Arrow Pt
Hibbard Bay
GRAND ISLE
Data Source: All map features derived from VGIS digital coverages. With the following exception: Zoning District boundaries description from the North Hero Planning Commission.
North arrow on map refers to Grid North.
This is not the official Zoning Map. The official signed version is on file at the town clerk's office.
DISTRICT ACRES
Village District 48.78
Shoreland District 2,105.29
Conservation District 1647.65
Rural Lands District 4,289.52
Off Islands District 542.95
Vermont Coordinate System
Transverse Mercator, NAD 83.
For planning purposes only.
Prepared by:
Northwest Regional Planning Commission
155 Lake Street
St. Albans, VT 05478
802.524.5958
www.nrpcvt.com
Date: August, 2012.
z:/gis/projects/county/grandisle/nhero/zoning2012/zoningmap.mxd

ARTICLE 4: ZONING PERMITS AND CERTIFICATES OF OCCUPANCY

SECTION 4.1: ZONING PERMITS

A) Applicability. A Zoning Permit is required prior to initiating land development unless specifically exempted in (B) below.

Land development activities that require a Zoning Permit include but are not limited to the following:

1) A new structure
2) A new or modified sign
3) Moving a structure
4) Additions or expansions to existing structures, including enclosed space, stairs, porches, ramps, decks, off-grid rooftop solar arrays, and an increase in height
5) A new land use (See Table 5.1)
6) Changing from one land use to another
7) Moving a land use to another lot

B) Zoning Permit Exemptions (Land Development that Does Not Require a Zoning Permit). The following land use activities do not require a Zoning Permit, unless located in the Flood Hazard Overlay District:

1) Statutory exemptions listed in Section 1.4.
2) Land uses classified as Exempt in Table 5.1.
3) Fences 6 feet or less in height.
4) Handicapped access structures.

Figure 4.1

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Structures include but are not limited to buildings, free-standing signs, fences, carports, porches, patios, swimming pools, off-grid freestanding solar arrays, freestanding towers, and lean-tos. Specifically, not included are sidewalks, driveways, underground utilities, and softscape landscaping such as trees, plants, groundcover, and mulching.

Land Use. How a parcel of land, including any structures located thereon, is being used. Table 5.1 identifies different types of land uses.

C) Zoning Permit Application Requirements. A complete application for a Zoning Permit shall include all the applicable information requested on the North Hero Zoning Permit Application Form, including the application fee. Any owner(s) of record or a designated agent of an owner may make an application for a Zoning Permit. A person must be designated in writing to be an agent under these Regulations. Zoning Permit Applications require a processing fee, which is set by the Selectboard and recorded in the Town of North Hero Fee Schedule; fees vary by use (Section 2.2).

D) Zoning Permit Public Notice and Issuance Requirements. Public notice and issuance requirements must be followed before a Zoning Permit may be issued according to Article 2.

E) Zoning Permit Requirements.

1) The ZA shall determine that applications comply with all applicable standards and requirements in these Regulations before issuing a Zoning Permit.
2) The ZA shall refer applications to the DRB if they require one or more DRB approvals. Any required DRB approvals shall be obtained before the ZA may approve or deny a Zoning Permit Application.
3) For development where a DRB permit or approval has been issued, including subdivision plat approval, no zoning permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.

F) Zoning Permit Effective Date.

1) No Zoning Permit shall take effect until the time for appeal has passed. In the event that a notice of appeal is properly filed, the permit shall not take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance 10 V.S.A. Section 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.
2) Zoning Permits have an automatic expiration of two (2) years from the date of issuance unless substantial work has been complete. Once expired, such permits may be reapplied for upon payment of the appropriate fee.

G) Permit Filing Requirements

1) As a condition of every permit, it is the obligation of the applicant to file all relevant State and Federal permits with the ZA.

SECTION 4.2: CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF COMPLIANCE

A) Certificate of Occupancy. All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit shall receive a Certificate of Occupancy from the Zoning Administrator before such structures may be occupied for their intended use. A Certificate of Occupancy shall be issued by the Zoning Administrator if the following criteria have been met:

1) The structure and the use of the property conform to the applicable zoning permit standards and the provisions of these regulations. A site visit to the subject property by the Zoning Administrator may be required to ensure conformance with this requirement.
2) The structure and/or use has a Wastewater and Potable Water Supply Permit from the State of Vermont, if required.
3) The structure has a 911 address number displayed in a location that is visible from the road (public or private).

4) The structure and/or use complies with all other applicable Town ordinances and regulations.
5) If a certificate is required per 30 V.S.A. §51 (residential building energy standards) or 30 V.S.A. §53 (commercial building energy standards), a signed copy of such certificate shall be provided to the Zoning Administrator before the issuance of a Certificate of Occupancy.
6) For development in the Flood Hazard Overlay District, all required as-built documentation shall be submitted to the Zoning Administrator, including a FEMA 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, replacement, substantially improved, substantially damaged or flood-proofed buildings (not including accessory buildings) in the Flood Hazard Area and all floodproofing and other certifications required under this regulation.

B) Certificate of Compliance. Although not required, a Certificate of Compliance may be requested at any time to determine a property's compliance with these Regulations, such as during real estate transactions.

SECTION 4.3: TEMPORARY USES AND STRUCTURES

A) Temporary permits may be issued by the ZA for a period not exceeding one (1) year 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 one (1) year time period. Such permit may be renewed upon application for an additional period not exceeding one year.

SECTION 4.4: ABANDONMENT AND DESTROYED STRUCTURES

A) If fire or other damage caused by external forces has destroyed a structure or use and the structure or use has been abandoned, the owner must remove all ruins and structural materials and restore the site to a smooth grade within two (2) years after the abandonment. Structures which have collapsed from age will be considered abandoned if within five (5) years after the collapse and notification by the ZA, the owner fails to present a restoration plan.

ARTICLE 5: LAND USES, DENSITY AND SETBACK STANDARDS

SECTION 5.1: LAND USES

A) Allowed Uses. Allowed uses may either be Permitted (P) or Conditional (C). All allowed uses require a Zoning Permit issued by the ZA.

1) **Permitted Uses**. Permitted uses (P) require a Zoning Permit from the ZA only. No approval from the DRB is required.
2) **Uses Requiring DRB Approval**. Uses that require Conditional Use Review require such approval from the DRB before the ZA may issue a Zoning Permit. Other DRB approvals included in Article 6 may also be required. For uses requiring multiple approvals, DRB review may be coordinated in accordance with Section 2.4(D).

B) Exempt Uses. Uses marked with an (E) in Table 5.1 are exempt and do not require a Zoning Permit. See also Section 1.4 (Statutory Exemptions) and Section 4.1(B) Zoning Permit Exemptions.

C) Prohibited Uses. Uses marked with an (X) in Table 5.1 are prohibited in the corresponding Zoning District(s).

D) Uses Not Listed in Table 5.1. Applicants may apply for Conditional Use Review from the DRB for uses not listed in Table 5.1. The DRB shall consider whether the proposed use is of the same general character as those allowed in the district in which the use is proposed before considering it for approval.

Table 5.1: Land Uses

P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)
Refer to Article 10 for land uses allowed in the Flood Hazard Overlay District.

Use	Notes	Village	Rural Lands	Shore-lands	Off Island	Conser-vation
Residential Uses						
Dwelling, Single Unit		P	P	P	P	X
Dwelling, Duplex		P	P	P	P	X
Dwelling, 3-4 Units		P	C	X	X	X
Dwelling, 5+ Units		C	X	X	X	X
Mobile Home Park	Section 8.3	C	C	C	C	X
Residential Accessory Uses						
Bed and Breakfast		C	C	C	C	X

Table 5.1: Land Uses

P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)
Refer to Article 10 for land uses allowed in the Flood Hazard Overlay District.

Use	Notes	Village	Rural Lands	Shore-lands	Off Island	Conser-vation
Casual Sales (Garage Sale)		E	E	E	E	X
Dwelling, Accessory	Section 8.2	P	P	P	P	X
Home Business	Section 8.8	E	E	E	E	E
Home Occupation	Section 8.8	P/C	P/C	P/C	P/C	X
Family Childcare Home	Section 8.5	E	E	E	E	E
Commercial Uses						
Earth Resource Extraction	Section 8.4	X	C	X	X	X
Gas Station / Motor Vehicle Service Station	Section 8.6	C	C	C	X	X
Light Industry		C	C	X	X	X
Lodging Establishment		C	C	C	C	X
Marinas and Yacht Clubs	Section 8.10	C	X	C	X	X
Residential Marine Associations	Section 8.10	C	X	C	C	X
Motor Vehicle Sales or Mobile/Modular Home Sales		C	C	X	X	X
Personal and Professional Service		C	C	C	C	X
Recreational Facilities		C	C	C	C	X
Restaurant (Sit Down, Take Out, and Drive-Through)		C	C	C	C	X
Retail Sales		C	C	C	C	X
Storage Facilities		C	C	C	C	X
Youth or Club Camp		C	C	C	C	X
Other Uses						
Accessory Structure		P	P	P	P	X

Table 5.1: Land Uses

P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)
Refer to Article 10 for land uses allowed in the Flood Hazard Overlay District.

Use	Notes	Village	Rural Lands	Shore-lands	Off Island	Conser-vation
Agriculture and Forestry	Section 1.4	E	E	E	E	X
Congregate Care Facility		C	C	C	X	X
Group Home	Section 8.7	E	E	E	E	X
Off-Grid Solar Arrays	Section 8.13	See Section 8.15				X
Place of Worship	Section 8.11	C	C	C	C	X
Public or Semi-Public Facilities	Section 8.11	C	C	C	C	X
Shoreline Stabilization Measures	Section 8.12	P	P	P	P	P
Small Off-Grid Wind Energy Generation System	Section 8.15	C	C	C	C	X
Temporary Use/Structure	Section 4.3	P	P	P	P	X
Wireless Telecommunications Facility	Section 8.17	C	C	C	C	X
Helipads and Private Landing Strips	Section 8.16	X	X	X	X	X

SECTION 5.2: DENSITY, SETBACK AND OTHER DIMENSIONAL STANDARDS.

A) Applicability. All land development shall meet the density and dimensional standards listed in Table 5.2, except when otherwise approved by the DRB as a variance, setback waiver, or PUD.

B) Calculating Density. When calculating maximum density for a particular lot for the purposes of subdivision, divide the total lot size including any rights of way by the applicable minimum lot size. When a lot proposed for subdivision is made up of two or more zoning districts, the district that a majority of the lot falls within will govern the requirement for minimum lot size. Where the majority of land does not fall in any one district, the DRB will determine the district that will govern the requirement for minimum lot size.

Table 5.2: Density, Setback and Other Dimensional Standards				
	Village	**Rural Lands**	**Conservation District**	**Shorelands and Off-Islands**
LOT SIZE				
Minimum Lot Size, Non-Residential	2 acres	3 acres	10 acres	N/A
Minimum Lot Size, Single unit and duplex or single unit and converted accessory building as defined by Act 47	2 acres	3 acres	NA	2 acres
Minimum Lot Size, Multi-unit dwelling 3+ units	2 acres for the first unit plus 1 acre per each additional residential unit (i.e. 3 acres for a duplex and 4 for a tri-plex)	3 acres for the first unit plus 1.5 acres per each additional residential unit (i.e. 6 acres for a tri-plex)	NA	N/A
SETBACKS (FEET)				
State Highway	100 feet	100 feet	NA	100 feet Shorelands, N/A Off-Islands
Town Road	75 feet	75 feet	NA	75 feet Shorelands, N/A Off-Islands
Lake Champlain	Regulated under the VT Shorelands Protection Act, 75 feet minimum	NA	NA	Regulated under the VT Shorelands Protection Act, 75 feet minimum
Private Road & Deeded ROW	25 feet	25 feet	NA	25 feet
Driveways	25 feet	25 feet	NA	25 feet Shorelands, NA Off-Islands
Yard - Side & Rear	25 feet	25 feet	NA	25 feet
Class 1 Wetland	100 feet	100 feet	100 feet	100 feet
Class 2 Wetland	50 feet	50 feet	50 feet	50 feet
Streams	50 feet	50 feet	50 feet	50 feet
HEIGHT RESTRICTIONS	35 feet	35 feet	NA	35 feet
MAXIMUM LOT COVERAGE	20%	20%	NA	20%

Table 5.2: Density, Setback and Other Dimensional Standards				
	Village	**Rural Lands**	**Conservation District**	**Shorelands and Off-Islands**
MINIMUM ROAD ACCESS FRONTAGE	50 feet	50 feet	NA	50 feet Shorelands, N/A Off-Islands
MINIMUM LAKE FRONTAGE	100 feet	N/A	N/A	100 feet
MINIMUM LOT WIDTH	100 feet	100 feet	NA	100 feet

SECTION 5.3: USES AND STRUCTURES PER LOT

Figure 5.3

Principal Use/Structure: A use or structure directly involved with the primary purpose of ownership on a particular lot.

Accessory Use/Structure: An incidental or subordinate structure and/or use that is secondary or ancillary to the primary use of the same lot. Accessory structures include garages, sheds, barns, pump houses, and other out buildings, antennae, towers, swimming pools, and other structures.

A) **Principal and Accessory Uses Per Lot**. There shall not be more than one (1) principal use and structure per lot, unless approved as a PUD (Section 6.4) or as agricultural housing (Section 8.3). There is no limit on the number of accessory uses/structures that may be permitted per lot unless otherwise limited in these Regulations.

SECTION 5.4: FRONTAGE

A) **Required Frontage**. Lots shall comply with the minimum road access and lake frontage dimensions in Table 5.2. Lot frontage is determined by the length of the boundary of a lot measured along the near edge of the established right-of-way of a state highway or town road or measured from the mean water line of Lake Champlain (95.5').

B) **Lots without Frontage**. No land development is permitted on parcels or lots that do not have any frontage on a public road or public waters, except with the approval of the DRB for an access by right-of-way. Under Conditional Use Review or Subdivision Review, the DRB may approve access to a parcel or lot without frontage on a public road or public waters by deeded right-of way at least twenty (20) feet in width (private roads may qualify). The DRB shall consider the intended use of the property, safety, traffic, road and site conditions in granting, conditioning, or denying

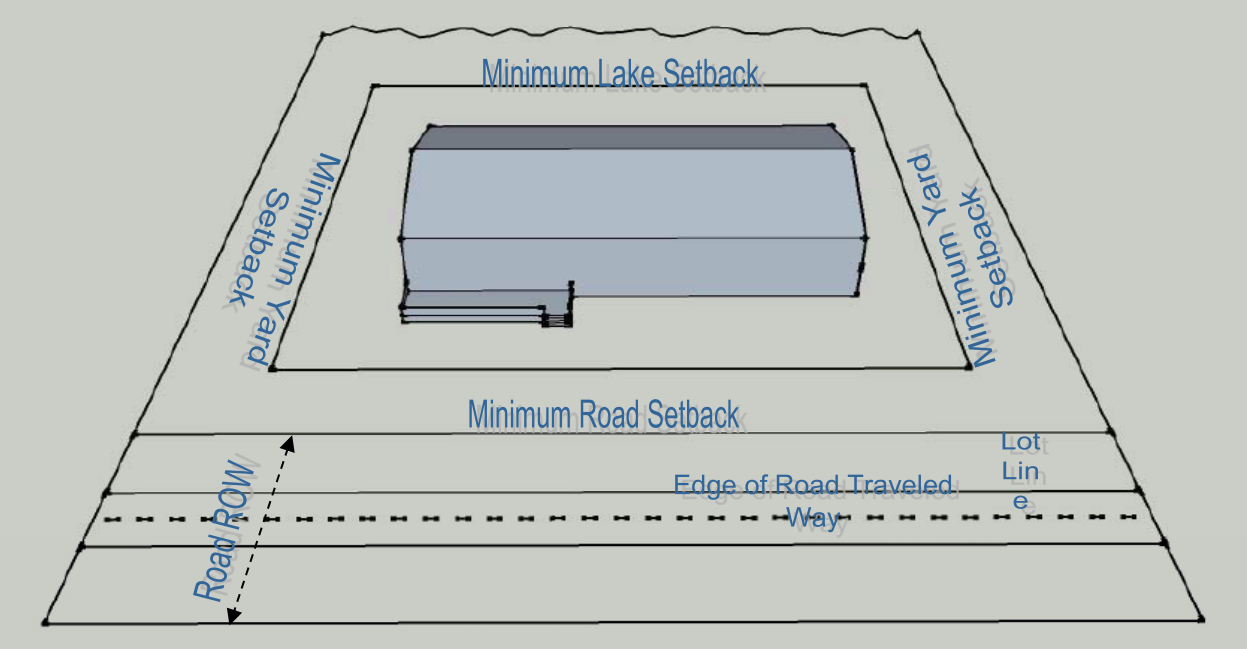
approval. Access by right-of-way to more than 3 lots shall comply with the Town of North Hero Road Standards (See Section 7.7).

SECTION 5.5: SETBACKS

A) Applicability. Land development is prohibited within the applicable setbacks listed in Table 5.2, unless granted a waiver (Section 5.5(E) and Section 6.2), or if it meets one of the exceptions in (D) below.

B) Measuring Setbacks. Setbacks shall be measured from the near edge of the road traveled way, from the mean water level of Lake Champlain (95.5'), from the near edge of a deeded ROW or from a property line, as applicable (See Figure 5.5).

Figure 5.5 Measuring Setbacks

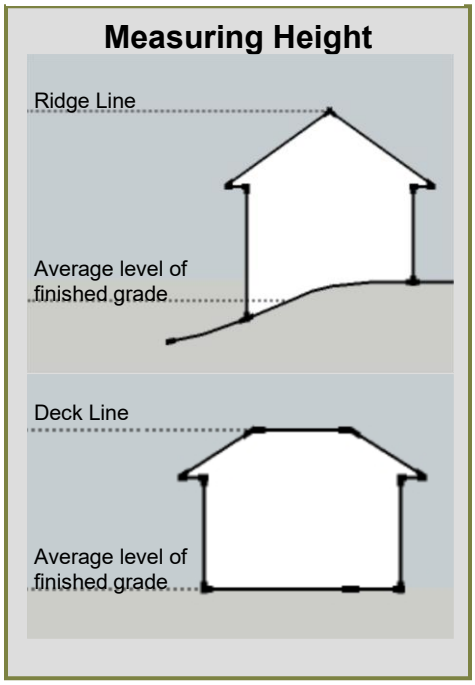


C) Determining Front Property Line. In the SL and OI districts, on all lots having one hundred (100.00) feet or more frontage on Lake Champlain, the front property line is deemed to be the lake front. In all other instances, the front property line is deemed to be that property line adjoining the highway, road or right-of-way used for access to the lot.

D) Setback Exceptions (Section 501). The following land development is exempt from all setback requirements:

- Fences.
- Pumphouses designed for ordinary residential or seasonal camp use.

Figure 5.6



E) Administrative Waiver for Pre-Existing Non-Conforming Lots (See also Article 9 regulating nonconformities). For pre-existing non-conforming lots with not more than one dwelling unit (and no accessory dwelling unit), the ZA may grant a 10' minimum setback for not more than one accessory structure when all of the following can be satisfied:

1) The setback is from side and/or rear property lines only
2) The proposed structure is less than or equal to 150 square feet with one side of the structure measuring at least 8 feet.
3) The ZA conducts a site visit.
4) No other variance or waiver is required.

SECTION 5.6: HEIGHT

A) Applicability. No building or structure shall exceed 35.0 feet in height above average finished grade, except as provided below.

1) Measuring Height. Height of structures shall be measured from average finished grade to the ridgeline or deckline of the roof, whichever is higher (Figure 5.6).

2) Exceptions to 35 Foot Height Maximum.

a) Ornamental, symbolic, and other rooftop features of buildings and structures, including but not limited to spires, cupolas, belfries, domes, cooling towers, and rooftop solar arrays, are exempt from the 35 foot height maximum provided they are not used for human occupancy or commercial advertisement and do not exceed 45.0 feet in height above average finished grade.

b) Small Off-Grid Wind Energy Generation Systems and Wireless Telecommunications Facilities are exempt from this Section; however, shall comply with the height restrictions in Section 8.15 and 8.17 respectively.

c) Under Conditional Use Review, the DRB may approve heights greater than 35 feet.

SECTION 5.7: LOT COVERAGE

In all Zoning Districts except the Conservation District, the maximum area on a lot permitted to be covered by buildings and other structures is twenty (20) percent of the lot area. All buildings and structures must be included in determining the percentage of Lot Coverage. Pavement and other surfaces not included in the definition of building and structure do not count.

In the Shoreland District, 250’ from MWL, all impervious surfaces including but not limited to building and other structures, driveways and patios may be subject to a maximum % coverage defined by the Shoreland Protection Act.

ARTICLE 6: DRB APPROVALS

SECTION 6.1: CONDITIONAL USE REVIEW

A) Applicability: The following uses require Conditional Use Review from the DRB:
1) Uses listed in Table 5.1 as conditional (C), including new uses, changing an existing use to a different use, and expanding or modifying an existing use so that is no longer conforms to its existing conditional use approval.
2) Uses not listed in Table 5.1.
3) Nonconformities (in some cases, see Section 9.2).
4) Structures with a height greater than 35 feet (Section 5.6).
5) Access by right-of-way to lots without frontage (Section 5.4).

B) Purpose: Conditional Use Review requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Conditional Use Review also requires that building and site design is consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize considerations to identify, avoid, and/or mitigate off-site impacts of a proposed project, in addition to those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

C) Application/Site Plan Requirements: A complete application for Conditional Use Review shall include:
1) All the information requested on the North Hero Application to the DRB, including a description of all existing and proposed activities that will take place on the property both inside and outside of structures and the hours of operation for commercial and industrial operations;
2) the application fee; and
3) two copies of a site plan, which shall be prepared in a clear and legible manner and include the following information:
   a) Names and addresses of the owner(s) and/or his agent.
   b) Names of the owners of contiguous properties. For these Regulations contiguous property means property adjacent to any and all sides of the specified property to include property separated by roads or deeded rights of way.
   c) Date, north arrow and scale (numeric and graphic).
   d) Property lines, with rough dimensions, and the area of the subject parcel.
   e) Proposed name or identifying title of parcel(s) and name of the Town.
   f) Significant features such as the location of wetlands, streams, etc.
   g) Existing and proposed structures (indicating type), public roads, deeded rights-of-way, wells, septic systems, etc. and their size, type and location relative to the property lines.
   h) Vicinity map, which is a map inset that shows the location of the subject property on the island.

i) Parking and circulation, including access to roads.
j) Designated on-site vehicular and pedestrian circulation with adequate access provided for all site amenities.
k) The location of all exterior storage areas for material, machinery, and/or vehicles.
l) The location, dimensions and detail of signage, displays and advertisements.
m) Any fuel or hazardous waste storage areas.

D) Review Procedure: The DRB shall issue a written decision following a duly noticed public hearing according to Section 2.4.

E) Review Standards:

1) The DRB shall find that the proposed development will not result in an undue adverse effect on any of the following:

a) The capacity of existing or planned community facilities. The DRB shall consider the demand for community services and facilities resulting from the proposed development, and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the DRB will consider any capital program or budget in effect at the time of application.

b) The character of the neighborhood area, or district affected. The DRB shall consider the location, scale, type, density, and intensity of the proposed development in relation to the character of the area likely to be affected by the proposed development, as defined by the purpose(s) of the zoning district(s) within which the project is located (See Section 3.1) and specifically stated polices and standards of the North Hero Town Plan. Multi- family dwellings with 4 or fewer units shall not be denied solely due to an undue adverse effect on the character of the area affected.

c) Traffic on roads and highways in the vicinity. The DRB shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected roads, bridges, and intersections. A traffic impact study may be required.

d) Other Town bylaws in effect. The DRB shall consider whether the proposed development complies with all municipal bylaws and ordinances in effect at the time of application, including conformance with applicable Development Standards and Specific Use Standards in Article 7 and 8 of these Regulations. No development shall be approved in violation of existing municipal bylaws and ordinances.

e) The utilization of renewable energy resources. The DRB shall consider whether the proposed development will interfere with the sustainable use of

renewable energy resources, including the existing and future availability of and access to such resources on adjoining properties.

2) The DRB may impose appropriate conditions and safeguards with respect to:

a) Maximum safety of vehicular and pedestrian circulation between the site and the street network. The DRB shall consider the safety of vehicular and pedestrian circulation between the site and the street network. Particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.

b) Adequacy of circulation, parking, and loading facilities. The DRB shall consider the adequacy of circulation, parking and loading facilities, including compliance with Section 7.5. Particular consideration shall be given to the effect of noise, glare or odors on adjoining properties and state and town highways. Adequacy of provisions for erosion control, runoff, refuse removal, service areas, and snow removal shall be considered.

c) Adequacy of landscaping and screening according to Section 7.3. The DRB shall consider the adequacy of landscaping and screening on the site. Exterior storage of material shall be designated to a specific area and adequately screened from view from adjacent properties, roads and the Lake and is prohibited in setback areas.

d) Adequacy of waste management plan. The DRB shall consider the adequacy of the plan for managing and disposing of trash, fuel and oil, cleaning materials, paint and other refuse.

e) Conformance with applicable Development Standards and Specific Use Standards in Article 7 and 8.

F) Conditions. The DRB shall have the power to impose reasonable conditions and safeguards to ensure compliance with the standards above. These conditions may include, but are not limited to, the standards listed below; however, conditions for housing developments or the housing portion of a mixed-use development shall not be more restrictive than any specific minimum standard set by these regulations unless justified according to the Act 24 VSA 4464(b)(7)(A).

1) The DRB may require project phasing or improvements necessary to accommodate the proposed development to ensure that the demand for facilities or services does not exceed existing or planned capacity.
2) The DRB may limit the scale or dimensions of the proposal.
3) The DRB may increase setback distances for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas.
4) The DRB may require landscaping and screening as appropriate to ensure the development fits in with its surroundings.
5) The DRB may limit the hours of operation.

6) The DRB may limit outdoor storage of materials, goods, and equipment.
7) The DRB may require that outdoor storage of or work associated with goods, parts, supplies, vehicles or machinery is inside a building or behind screening.
8) The DRB may attach conditions with regard to size and location of parking areas, landscaping, and signs.
9) The DRB may require roadway improvements on-site or off-site, if deemed necessary, to accommodate the increased traffic associated with the development. Improvements may also include traffic calming, sidewalks, crosswalks and other similar improvements.
10) The DRB may limit the location of buildings, structures and landscaping to protect visual and physical lake access for neighbors.

SECTION 6.2: SETBACK WAIVER

A) Purpose and Applicability: A Setback Waiver is an approved reduction to the minimum setback distance required for a particular structure according to Table 5.2. To preserve and continue existing development patterns, the DRB may waive the setback according to the following provisions:

1) Where existing structures within 200.00 feet of the proposed structure do not meet minimum road setback standards, the DRB may approve a reduction to the state, town, private road, or lake setback for not more than one (1) primary or accessory structure (on conforming and non-conforming lots). See also Article 9 regulating nonconformities.
2) For structures on non-conforming lots, the DRB may approve a reduction to yard setbacks. See also Article 9 regulating nonconformities.
3) Lots with more than one dwelling unit, including accessory dwelling units, are not eligible for a setback waiver.

B) Application Requirements: A complete application for a Setback Waiver shall include all the information requested on the North Hero Application to the DRB, and if applicable to the requested waiver a detailed drawing of all structures within two hundred (200.00) feet of the proposed structure including those on adjacent properties.

C) Review Procedure: The DRB shall issue a written decision following a duly noticed public hearing according to Section 2.4.

D) Review Standards: The DRB may approve a setback waiver in accordance with the standards below.
1) The DRB shall not approve a waiver that that would have an undue adverse effect on adjacent property, the character of the area or on public health and safety
2) In the issuance of waivers the DRB:
   a) Shall consider and may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The

design feature shall provide adequate privacy to the surrounding use(s). Examples include fences, densely planted landscaping such as a hedge, or other natural and/or man-made landforms.

b) May require that all outdoor storage of materials and equipment, including waste storage facilities, not be stored or located within the reduced setback area.

c) Shall provide only the minimum waiver that will represent the least deviation possible from the bylaw.

3) In the issuance of waivers for setbacks to state, town, or private roads, or the lake, the DRB shall not approve a setback less than the average of like structures (principal or accessory) within 200 feet of the proposed structure. If there is only one like structure, the average shall be calculated with the one like structure and the minimum setback requirement for the District. In no case shall a setback to a State, Town or private road be less than 25 feet from the center line of the Right of Way.

4) Any waiver approved by the DRB shall be considered the minimum setback for that structure and it shall be considered conforming with respect to that setback distance.

SECTION 6.3: VARIANCES

A) Applicability. Requests for variances from the provisions of these Regulations may be submitted for structures (but not for uses) and shall be regulated as prescribed in Section 4469 of the Act.

B) Application Requirements. A complete application for a variance shall include all the information requested on the North Hero Application to the DRB, including the application fee. The application shall also include a written description of how the proposal meets the requirements of Section 6.3(D) below.

C) Review Procedure: The DRB shall issue a written decision following a duly noticed public hearing according to Section 2.4.

D) Review Standards. The DRB may grant a variance and render a decision in favor of the applicant only if all the five (5) facts listed below are found, and the findings are specified in its written decision. In addition to the five (5) facts listed below, variances for structures in the Flood Hazard Area Overlay District shall conform to Article 10.

- That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.
- That because of such physical circumstances or conditions, there is no

possibility that the property can be developed in strict conformity with the provisions of these Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- That the unnecessary hardship has not been created by the applicant.
- That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
- That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from zoning regulation and from the plan.

1) In making a decision in favor of the applicant for a variance, the DRB may attach conditions which are necessary to comply with the Act and/or the Town Plan.

2) On a request for a variance for a structure which is primarily a renewable energy resource structure, the DRB may grant the variance only if it finds that all of the facts listed in 24 V.S.A. §4469(b) are found in the affirmative.

SECTION 6.4: PLANNED UNIT DEVELOPMENT (PUD)

A) Purpose. In accordance with Section 4417 of the Act, Planned Unit Developments (PUDs) are permitted in order to achieve the following purposes:
1) Compact, pedestrian-oriented, mixed-use development;
2) Affordable housing;
3) Open space preservation and project compatibility with surrounding rural lands
4) Flexibility in lot layout and site design;
5) The efficient use of public facilities and infrastructure; and
6) Energy-efficient forms of development.

B) Applicability. The ZA shall evaluate all proposals for PUDs to determine whether the project qualifies to be considered as a PUD as outlined below.
1) To qualify as a PUD, a project shall:
   a) Be located in the Rural Lands or Village Districts;
   -or-
   b) Be on a lot that is located in both the Rural Lands and Shorelands Districts provided that:
      1) A minimum of 75% of the total area of the lot is located within the Rural Lands District; and
      2) Any development within the Shorelands District portion of the lot shall comply with all regulations that apply to that district
   c) Contain at least 4.0 contiguous acres; and
   d) Further at least two of the purposes of a PUD identified above.

2) PUDs may:

a) Involve the creation of separate building lots or may include a development in which multiple principal structures and uses are constructed on an existing parcel or parcels.
b) Involve one parcel or multiple adjacent parcels as a single PUD project.

C) Review Procedure. An application for PUD approval shall be reviewed according to the Subdivision Review process in Section 6.5. For PUDs that include one or more uses requiring Conditional Use Review, such approval(s) shall also be required for the specific uses. These approvals shall be coordinated with PUD review to the extent practical.

D) Application Requirements. In addition to application requirements for subdivision review, applications for PUDs must include the following:

1) A brief summary of the project that explains how it meets the purposes of a PUD as identified in 6.4(A) above.
2) Any request for flexibility in the application of the dimensional standards in Table 5.2 of these Regulations and any request for a density bonus according to Section 6.4(G) below.

E) General Standards.

1) Dimensional Standards. To further the goals of PUDs, applicants may request reduced minimum lot area and setback distances from those prescribed in Table 5.2 of these Regulations. The DRB shall set minimum lot area and setback distances appropriate to the project in the written decision. The DRB shall take into consideration the purpose of the Zoning District, the goals of PUDs, compatibility of adjacent uses, traffic, and other conditional use and site plan standards in setting minimum lot area and setback distances.

2) Perimeter Setback. The minimum setback requirements for the District in which the project is located shall apply to the perimeter of the project under review.

3) Allowed Uses. The uses allowed in a PUD shall be governed by the standards of Section 5.1.

4) Mixed Uses; More than 1 Principal Use per Lot. PUDs may involve multiple types of uses. The DRB may approve more than one principal use per lot (within separate structures or shared structures). Mixed uses shall be arranged to be compatible, and to minimize visual and noise impact for the residents of the development and adjacent properties. To achieve this, the DRB shall require landscaping, screening, and/or setbacks as appropriate.

5) Clustering. Development shall be clustered to preserve rural character and the working landscape and to further the efficient use of land.

F) Open Space Standards.

1) PUDs shall be designed to preserve open space for one or more of the following reasons: parks, recreation, agriculture, forestry, or scenic views. The location, size, shape, and intended use of lands set aside to be preserved for open space shall be approved by the DRB in accordance with the following:
   a) A minimum of 10% of total project acreage shall be open space in the Village District and a minimum of 50% of the total project acreage shall be open space in the Rural Lands District.
   b) Notwithstanding (a) above, the location, shape, and size of the open space shall be suitable for its context and intended use.
   c) Open space shall be configured to be contiguous with existing and/or potential open space and conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.
   d) Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
   e) Sewage disposal areas, utility and road rights-of-way or easements, and access and parking areas shall not be counted as open space, except where the applicant can demonstrate, to the satisfaction of the DRB that they will in no way disrupt or detract from the intended use for which the open space is to be protected.

2) Open space shall be protected for its intended use by one of the following means:
   a) An easement granted to a third party for an appropriate open space use.
   b) The open space may be held in common by a homeowners association and protected from further development by condition of DRB approval and by condition of any homeowner's association covenant.
   c) The open space may be held by a single owner and protected from further development by condition of DRB approval and deed restriction.
   d) The open space may be conveyed in fee simple to one of the following as approved by the DRB:
      i) the Town of North Hero, if it agrees; or
      ii) a non-profit organization whose mission includes the protection of natural resources and/or public recreation.
   e) The open space may be held in single ownership and the DRB may condition that it be made available, by deed, for public or common use in order to further one or more purposes of a PUD.
   f) The open space may be protected by other similarly effective means acceptable to the DRB.

G) Density Bonus.

1) The DRB may grant a density bonus according to the criteria below. The density bonus shall be applied to the density calculated according to Section 5.2.
   a) In the Village District, the DRB may grant a five percent (5%) density bonus for each of the criteria listed below which is met by the proposed project:
      i) The project incorporates re-use of existing historic structures.
      ii) The project incorporates commercial and residential uses.

iii) The project incorporates walking trails or parks (for use by the public or by residents/occupants of the project only).
iv) The project incorporates pedestrian or recreation infrastructure, such as playground equipment, benches or picnic tables, BB-Q areas, gazebos or pavilions, playing fields, tennis courts, or other sports amenities, which is made available to the public or to residents/occupants of the project only.
v) The project incorporates vehicular connectivity by making all proposed streets connect to the streets of adjacent developments to form a network.
vi) The project incorporates pedestrian connectivity by making proposed trails and sidewalks connect to existing systems.
vii) The project provides land and/or infrastructure for public use without fee.
viii) The project has one or more Leadership in Energy and Environmental Design (LEED) certified components (certified by the US Green Building Council).
ix) The project is designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Grand Isle County.
x) At least twenty (20) percent of housing units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years. Affordable housing is defined in the Act.

b) In the Rural Lands District, the DRB may grant a two percent (2%) density bonus for each of the criteria listed below which is met by the proposed project:
i) The project incorporates walking trails or parks (for use by the public or by residents/occupants of the project only).
ii) The project incorporates vehicular connectivity by making all proposed streets connect to the streets of adjacent developments to form a network with no dead-end roads.
iii) The project incorporates re-use of existing historic structures.
iv) The project has one or more Leadership in Energy and Environmental Design (LEED) certified components (certified by the US Green Building Council).
v) At least twenty (20) percent of housing units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years. Affordable housing is defined in the Act.

SECTION 6.5: SUBDIVISION

Figure 6.5(a)

Subdivision: The division of a lot or parcel of land into two or more lots or other divisions of land for sale, development or lease.

A) Purpose. The purpose of these subdivision regulations is:

1) to guide community settlement patterns based on the vision of the Town Plan;
2) to ensure the efficient extension of services, utilities, and facilities as land is developed;
3) to ensure that any required public improvements meeting specified standards be made by the developer of the subdivision;
4) to create lots that meet minimum size requirements, are not irregularly shaped, and have adequate access; and
5) to ensure that lots are mapped and tied to surveying reference points so they can be easily recorded by the Town.

B) Applicability. Pursuant to the Act, all subdivisions of land and boundary adjustments within the Town of North Hero require Subdivision Approval according to this Article.

C) Subdivision Classification. For the purposes of these regulations, subdivisions shall be classified by the ZA as minor subdivisions or major subdivisions in accordance with the following:

1) Minor Subdivisions shall include:
   - Any subdivision containing not more than three (3) lots and that does not require any new public or private road, road extension, or extension of municipal facilities. Subdivisions that create a new lot without frontage on a public road or waterway must be considered as Major Subdivisions;

Figure 6.5(b)

Plan and Survey Plat Specifications

Sketch Plans. An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the DRB on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in Table 6.5 and may be hand drawn.

Size and number of copies: No size requirement. One original copy is required, the ZA may require additional copies.

Subdivision Site Plans. A Subdivision Site Plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Subdivision Site Plans shall be drawn to scale and include detailed information as required in Table 6.5.

Size and number of copies: One original 18 inches by 24 inches or larger, additional copies may be required and may be reduced as specified by the DRB during Sketch Plan Review, or by the ZA.

Survey Plat. A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A Draft survey plat on paper, along with the digitized format, may be submitted for Final Plan Review. Survey plats shall be prepared according to Section 6.5(I) and 27 V.S.A. Section 17.

- Boundary line adjustments including those that involve one or more Zoning Districts;
- Modifications to an approved minor subdivision; or
- Modifications to an approved major subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval.

2) Major subdivisions shall include subdivisions that do not meet the minor subdivision criteria in 6.5(C)(1) above, in addition to:
   - Planned unit developments;
   - Subdivisions involving more than one Zoning District; and
   - Subdivisions that create a new lot without frontage on a public road or waters (all proposed access by right-of-way must be approved according to Section 5.4 and Table 6.5).

D) Review Process. There are three (3) levels of subdivision review:
- Sketch Plan Review,
- Preliminary Plan Review, and
- Final Plan Review.

1) Minor Subdivisions may elect to undergo Sketch Plan Review. Minor Subdivisions are exempt from Preliminary Plan Review and shall require Final Plan Review (6.5 (H) and Table 6.5).

2) Major Subdivisions require Sketch Plan Review, Preliminary Plan Review and Final Plan Review. However, the DRB may waive Preliminary Plan Review at Sketch Plan Review.

3) Site Visit. The DRB may request a site visit before or during the Sketch Plan Review public hearing, the Preliminary Plan Review public hearing, or the Final Plan Review public hearing. The applicant will be asked to mark significant aspects of the proposal for DRB observation. The public will be invited to attend, but no testimony or evidence may be given at the site visit.

4) Number of Reviews.
   a) Additional Sketch Plan Review meetings will be permitted at the mutual discretion of the DRB and applicant. This is to ensure the most complete and efficient review of projects, to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.
   b) At the discretion of the DRB, Preliminary Plan and Final Plan Public Hearings may be continued to another date and time certain announced during the public hearing by the DRB.

E) Application Requirements. For all subdivisions (including boundary adjustments), one original set of application materials is required for submission under this

Section. The DRB may request additional copies. A set of application materials includes:

a) A completed Application to the DRB,
b) The application fee according to the fee schedule adopted by the North Hero Selectboard,
c) A set of plans that include all the information required in Table 6.5,
d) Abutting property owner information, and
e) Any additional materials that may be required according to Table 6.5 or by the DRB.

1) **Application Material Waivers**. The DRB may waive or vary application submission requirements it judges are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate both in the short and long term. No such waiver shall be granted if it would have the effect of nullifying the intent and purpose of the North Hero Town Plan or these Regulations.

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements

✓: Required **NA: Not Required**	**Sketch Plan Review**	**Preliminary Plan Review**	**Final Plan Review**
Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.			
Required Form (See Figure 6.5(b))	Sketch Plan	Site Plan	Draft Survey Plat
Location Map showing the project location in the context of the whole town	✓	✓	✓
Title Block including the following information:	✓	✓	✓
Project Title	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc.)	✓	✓	✓
Location Description	✓	✓	✓
Site Address	✓	✓	✓
Name of Landowner	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓
Scale	✓ **Approximate**	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	**NA**	✓	✓
North Arrow	✓	✓	✓
Date of preparation and record of any revisions	✓	✓	✓

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements			
✓: Required NA: Not Required	Sketch Plan Review	Preliminary Plan Review	Final Plan Review
Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.			
Relevant Planning and Zoning Information, including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓ Approximate	✓	✓
Contour lines at intervals of 5 feet (unless waived or modified by DRB)	NA	✓	✓
Lot and tract identification boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	✓ Approximate	✓	✓
Draft Property Boundary Survey Prepared by Licensed Land Surveyor: Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when: -it is 10 acres or less in size, and/or -greater than 50% is subdivided into lots	NA	NA	✓
Adjacent property and owners: all adjacent lands should be labeled with the name of the property owner(s).	✓	✓	✓
Existing features (i.e. non-portable features of the landscape): Streams, ponds, and wetlands; structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; and any other existing features.	✓ Approximate	✓	✓
The proposed project (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations): All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.	✓ Approximate	✓	✓
Mitigation measures: Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓ Approximate	✓	✓
Off-site Improvements that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓ Approximate	✓	✓
Building envelopes, reserve areas, and open space. "Building envelopes" delineate the general area development is proposed. "Reserve areas" are those set aside for future development or expansion. "Open space" is any area set	✓ Approximate	✓	✓

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements			
✓: Required NA: Not Required	Sketch Plan Review	Preliminary Plan Review	Final Plan Review
Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.			
aside to satisfy the open space requirement for PUD approval.			
Public rights-of-way and easements	✓ **Approximate**	✓	✓
Specialized Plans			
Utility Plan: Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.	**NA**	✓	✓
Grading and Erosion Control Plan: Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).	**NA**	✓	✓
Stormwater Management Plan: Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins.	**NA**	✓	✓
Road and Bike/Pedestrian Plan: Current and proposed grades for the installation of roads, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks.	**NA**	✓	✓
Landscaping Plan: Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.	**NA**	✓	✓
Lighting and Signage Plan: Locations and illumination of exterior lights. Location and dimensions of all exterior signs.	**NA**	**As Required**	**As Required**
Garbage Collection Plan: Location for garbage collection and method for containing garbage put out for pick-up.	**NA**	**As Required**	**As Required**
Transportation Impact Study: A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.	**NA**	**As Required**	**As Required**
Master Plan: An indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	**NA**	**As Required**	**As Required**
Legal Documents: A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.	**NA**	**As Required**	✓

F) Sketch Plan Review. All major subdivisions require Sketch Plan Review. Minor subdivisions may elect to undergo Sketch Plan Review. Sketch Plan Review is

completed by the DRB according to this Section.

1) **Public Hearing.** A public hearing shall be held by the DRB at the earliest available regular or special meeting after a complete application for sketch plan review is submitted to the ZA. The hearing shall be warned according to Section 2.4

   The subdivider, or duly authorized representative, shall attend the public hearing to discuss the requirements of these Regulations for lot layout, building location, streets, improvements, stormwater management, fire protection, resource protection, and other aspects; as well as the availability of existing services and conformance with the planning standards of these Regulations.

2) **Action on Sketch Plan.** The DRB shall study the Sketch Plan to determine whether or not it conforms to these Regulations and any other municipal regulations in effect. Where it deems necessary, the DRB will make specific recommendations for changes in subsequent submissions. Where necessary for the protection of the public health, safety, and welfare, the DRB may require that a Minor Subdivision comply with all or some of the requirements for Major Subdivisions specified in these Regulations. The minutes of the Sketch Plan meeting shall constitute record of Sketch Plan Review for each application; no formal decision is issued. Sketch Plan Review is effective for a period of 1 year.

G) Preliminary Plan Review.

1) **Application Process.** Within 1-year of Sketch Plan Review, applications for Preliminary Plan Review of a Major Subdivision shall be submitted to the DRB. Complete application materials shall contain those items set forth in Section 6.5(E) above. The Plan shall build upon the layout approved at Sketch Plan Review plus any recommendations made by the DRB and agreed upon by the applicant. When requested in writing, the DRB may grant extensions beyond this 1-year period when the project is delayed due to circumstances beyond the applicant's control. If no extension is granted, the subdivider shall be required to complete the subdivision review process again beginning with Sketch Plan Review and will be subject to any new regulations that have gone into effect.

2) **Action on Preliminary Plan.** Public notice, public hearing, and decision requirements in Section 2.4 apply. The DRB shall review the subdivision for conformance with the density requirements in Article 5, the Development Standards in Article 7 and any other applicable standards in these Regulations.

3) **Effect of Preliminary Plan Approval.** Approval of a Preliminary Plan does not constitute approval of the subdivision and does not guarantee approval of the Final Plan. Prior to approval of the Final Subdivision Plan, the DRB may require additional changes as a result of further study. The approval of a Preliminary Plan is effective for a period of 1 year.

H) Final Plan Review.

1) **Application Process.** Within 1-year of Sketch Plan Review (if applicable for minor subdivisions) or Preliminary Plan Approval (for Major Subdivisions), applications for Final Plan Review shall be submitted to the DRB. The Final Plan application materials must conform to the layout approved at Preliminary Plan Review, including any amendments required by the DRB. When requested in writing, the DRB may grant extensions beyond this 1-year period when the project is delayed due to circumstances beyond the applicant's control. If no extension is granted, the subdivider shall be required to complete the subdivision review process again beginning with Sketch Plan Review and will be subject to any new regulations that have gone into effect.

2) **Action on Final Plan.** Public notice, public hearing, and decision requirements in Section 2.4 apply. The DRB shall review the subdivision for conformance with the density requirements in Article 5, the Development Standards in Article 7 and any other applicable standards in these Regulations.

3) **Acceptance of Public Infrastructure**. Final approval by the DRB shall not be deemed to constitute or be evidence of acceptance by the Town of any street, road, easement, utilities, park, recreational area, or open space shown on the Final Plan or Survey Plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

4) **Other Permits and Regulations**. Approval of the Final Plan shall not exempt an applicant from compliance with all other applicable local, state, or federal regulations, standards, policies, and ordinances.

I) Filing of Final Survey Plat. Upon approval of the Final Plan by the DRB, the subdivider shall prepare a Survey Plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. A Survey Plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the licensed land surveyor who prepared the Survey Plat, indicating that all the permanent lot markers (pins) have been set. Survey Plats shall be prepared according to the specifications listed below. Draft paper Survey Plats may be required for approval by the DRB before preparing a Mylar copy for filing.

Survey Plat Specifications:

- Mylar
- Clear and legible data and information
- 18.0 inches by 24.0 inches in size
- Stamp and signature of licensed Land Surveyor
- Margin of 2.0 inches outside of the borderlines on the left side for binding and a 1.0-inch margin outside the border along the remaining sides

- Inset locus map clearly indicating the location of the land depicted and a legend of symbols used
- Plat scale ratios sufficient to allow all pertinent survey data to be shown, and graphic scale graduated in units of measure used in the body of the plat

The chairperson (or acting chairperson) of the DRB shall endorse the Final Survey Plat with the date of Final Plan Approval. Following endorsement by the chairperson of the DRB and within 180 days of the DRB's Final Approval, the subdivider shall submit the Final Survey Plat to the Town Clerk for filing. The Town Clerk shall endorse the Final Survey Plat before filing. The DRB's written decision and Final Subdivision Site Plans, which include all permit conditions set by the DRB, shall be filed in the land records of the Town and their location must be clearly referenced on the Final Survey Plat.

Final Plan Approval shall expire if the subdivider does not receive endorsement and file the Final Survey Plat and related documents within the 180-day period, per 24 VSA 4463. The ZA, upon written request prior to the expiration date, shall extend the date for filing the Final Survey Plat by an additional 90 days if final local or state permits or approvals are still pending.

J) Revisions. Except as may be required in any condition of final approval, no changes, modifications, or revisions shall be made on any final Subdivision Site Plan and Survey Plat after Final Approval, unless said Final Plan and Survey Plat are first resubmitted to the DRB in accordance with these Regulations and the DRB approves the modifications. See Section 6.5(H).

K) Phasing. At any point in the Subdivision Review process, the DRB may require the Plan to be divided into two or more phases to be developed at separate times. The DRB may impose specific conditions for subsequent application submissions to ensure the orderly development of the Plan and coordination with the planned and orderly growth of the Town as reflected in the Town Plan and any capital budget and program in effect.

L) Master Plan Review.

a) When part of a larger parcel is proposed for development, the DRB may require a description of the potential build-out of the entire parcel and adjacent parcels (Master Plan) as part of the requirements established after Sketch Plan Review.
b) When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the parcel, and a description of the probable uses. The build-out may be drawn in a sketch plan format. The DRB may require that the build-out be submitted as part of an extended sketch plan review, or as a part of the preliminary or final plan.
c) Requirements for Master Plan review are intended to ensure the orderly

development of the Town and will be required when the DRB determines that the development currently under application may have an impact on the future development potential of the remaining parcel or adjacent parcels. It will also be required when the DRB determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the Town of North Hero.

d) Approval of an applicant's current application does not constitute approval of the Master Plan build-out.

ARTICLE 7: DEVELOPMENT STANDARDS

SECTION 7.1: APPLICATION OF STANDARDS

The ZA and DRB shall evaluate applications against the applicable standards below. Not all standards will apply to every application. The DRB may require modification of subdivision or site plan design, phasing, or permit conditions to avoid or mitigate any adverse impacts and to ensure conformance with these standards.

SECTION 7.2: FENCES

A) All fences over six (6) feet require a Zoning Permit.

B) No wall, fence or shrubbery shall be erected, maintained or planted on any lot in a position where it could obstruct or interfere with either traffic visibility or the vision of a motorist, cyclist or pedestrian on a highway, road or right-of-way. This restriction applies to, but is not limited to, areas on a curve or on a tangent to a curve and on a corner lot to the triangular area formed by the lot lines along the highways, roads or rights-of-way and a line connecting them at points thirty (30.00) feet from the intersection.

SECTION 7.3: LANDSCAPING AND SCREENING

A) Landscaping. The DRB may require planting and other landscaping to enhance the features and conditions unique to each site and/or to provide screening from adjacent uses in accordance with the following standards.

1) Landscaping may be required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, or as otherwise necessary to provide adequate landscaping, buffering and/or screening.
2) The DRB may impose requirements with regard to the size, variety, number and location of trees, front yard green space, other buffer yards, and screening outside of storage areas or other unsightly areas from public streets and/or adjoining properties.
3) In determining the amount of landscaping the DRB shall consider existing trees, shrubs, evergreens and other plant material to be preserved on the site. Particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site.
4) Native plantings are encouraged over the use of non-native plantings. Invasive species are prohibited.

Figure 7.3

For listings of native plants reference:
Vermont Rain Garden Plant List
(*http://www.uvm.edu/~seagrant/communications/assets/VTRainGardenManualPlantList.pdf*), or
Elmore Roots Vermont Native Plant List
(*http://www.elmoreroots.com/guides/vermont-native-plants-list/*).

For invasive plants reference:
The Vermont Invasive Exotic Plant Committee's list
(*http://www.vtinvasiveplants.org/invaders.php*).

5) Plantings shall be installed and maintained in accordance with professional landscape practices. A three (3) year plan for all proposed landscaping, and/or bonding or other surety also may be required to ensure installation and maintenance.

B) Screened Service and Loading Areas. Except in conjunction with one-family and two-family dwelling units, all areas designated, used or intended to be used as service and loading areas for any building or land use must be screened from view from all adjacent residential properties. Screening must extend at least five (5.00) feet above finish grade and may be a wall, a solid fence or a fence of evergreens.

SECTION 7.4: OUTDOOR LIGHTING

A) General Standards. To allow for appropriate outdoor lighting, while minimizing its undesirable effects, the following standards apply to all outdoor lighting installations in the Town of North Hero, with the exception of temporary holiday light displays which are exempt from these requirements:

1) 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.
2) Permanent outdoor lighting fixtures shall be designed to minimize glare, and shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.

B) Specific Standards. For outdoor lighting installations associated with development that is subject to subdivision or conditional use review, the DRB may also require the following and condition approval accordingly:

1) Information regarding exterior lighting fixtures, including fixture type, mounting locations and heights, illumination levels and distribution, and color, to be submitted as part of the subdivision or conditional use application under Article 6. A lighting plan, prepared by a qualified lighting expert, may be required as appropriate for projects requiring outdoor parking area, street, or security lighting.

2) The use of security or street lighting only if unusual or hazardous conditions require it. Security lighting, where deemed necessary by the DRB, shall be shielded and aimed so that only designated surfaces or areas are illuminated.
3) Street lighting shall not be provided except where it is deemed necessary by the DRB for safety or security, such as at road intersections, or pedestrian crossings or walkways.
4) Outdoor lighting fixtures associated with nonresidential uses, except for approved security lighting, shall be illuminated only during business hours, unless otherwise specifically approved by the DRB.

C) Waiver. The DRB may waive or modify the requirements of this Section if it finds that 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.

SECTION 7.5: PARKING AREAS/LOTS (OFF ROAD PARKING)

Off-road parking must comply with the following standards:

A) Parking areas/lots shall be setback 25 feet from all property lines. This standard shall not apply to parking areas for one (1) and two (2) family dwellings.

B) Parking areas/lots must be designed so that no parking or maneuvering will be necessary on any public road or highway. Entrances and exits are to be clearly marked and comply with all public road requirements.

C) Parking spaces must be adequately sized for their intended vehicles (approximately nine (9) feet by eighteen (18) feet for non-commercial cars and trucks and ten (10) feet by forty (40) feet for large trucks and other large vehicles).

D) Minimum requirements for the number of spaces to be provided are provided in Table 7.5. Accessible parking spaces in compliance with the Americans with Disabilities Act shall also be provided.

Table 7.5 Off-Street Parking Space Requirements	
One and Two Unit Dwellings	1.5 spaces per unit
Accessory Dwellings	1 space per unit
Multi-Unit Dwellings	1.5 spaces for the first 2 units, 1 space per additional unit
Home Occupation	1 space plus 1 additional space for each 300 sq. ft. of office space
Lodging Establishments	1 space for each guestroom
Personal and Professional Services, Retail Sales, Gas/Service Stations	1 space for each motor vehicle used in the business plus 1 additional space for each 200 sq. ft. of floor area.
Restaurants	1 space for each 150 sq. ft. of floor area.

Marinas and yacht clubs	1 space for each mooring and/or docking berth as permitted by the State of Vermont (see also Section 8.12 for shared parking opportunities).
Other uses	As required by the DRB.

E) Parking lots proposed for new developments must provide adequate landscaping and screening (in the form of plantings) from public roads and adjacent properties. For parking lots in excess of 20 spaces, landscaped areas must be integrated into the parking lot design in addition to providing screening around the edges. Residential uses are exempt from this requirement.

SECTION 7.6: PERFORMANCE STANDARDS FOR USES

The following performance standards must be met by all uses in all districts. Uses shall not under normal circumstances:

A) Emit any sustained noise, odors, dust, smoke or noxious gases that endanger the health, safety or welfare of any person or that have a tendency to cause injury or damage to property, business or vegetation.

B) Use any lighting or signs that create a glare and could interfere with the vision of the operator of any motor vehicle or boat or that pose an annoyance to neighbors whether on adjacent property or within sight of the source.

C) Present a potential for explosion, fire or any other calamity or disaster. Flammable or combustible liquids or any hazardous waste shall be stored within containment structures sufficient to contain fuel spillage, be marked with HazMat signs and comply with all applicable Vermont and Federal regulations.

D) Discharge any harmful or hazardous wastes into any sewage disposal system or into Lake Champlain or any pond, stream, or other body of water or watercourse.

SECTION 7.7: ROAD, DRIVEWAYS AND ACCESS STANDARDS

A) Applicability. The following standards shall apply to all roads and driveways.

1) Driveways (private). All accesses serving not more than three (3) lots shall be considered driveways and shall comply with the driveway standards in Sub-Section (B) below. The interest of the owner of each lot served by a common or shared driveway shall be protected by an easement recorded in the deed of each lot involved.

2) Roads (public or private). All accesses serving four (4) or more lots shall be considered roads and shall comply with the Town of North Hero Road Standards and Sub-Section (C) below. All roads shall be private unless otherwise accepted

as public roads by the Selectboard. The interest of the owner of each lot served by a private road shall be protected by an easement recorded in the deed of each lot involved.

3) **Access to lots without frontage** on a public or private road may be permitted by the DRB according to Section 5.4.

B) Driveway Standards. Driveways shall be setback a minimum of 25 feet from all property lines (the DRB may waive this standard for shared driveways involving adjacent properties). Driveways serving two (2) or three (3) lots shall have a minimum width of 20 feet.

Driveways serving one (1) lot shall have a minimum width of 12 feet. Driveways may be subject to the impervious surface standards established in the Shoreland Protection Act or Wetland Rules.

C) Road Standards. The standards of this section shall apply to all proposed public roads and to proposed private roads serving 4 or more lots. In addition, these standards may be applied to private roads serving three or fewer lots when the DRB determines that such standards are necessary to provide suitable access or to accommodate potential future land development.

1) Construction and Design Standards. All public and private roads shall be designed in accordance with the North Hero Town Road and Bridge Standards, as most recently amended.

2) Arrangement. The arrangement of new roads shall connect with existing roads on adjoining parcels and allow for future continuation through adjoining properties which are not yet subdivided or developed, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required, of needed utilities and public services. To allow for future continuation of roads, the DRB may require rights-of-way that extend to adjacent property lines. Where in the opinion of the DRB, topographic or other conditions make such connection or continuance undesirable or impracticable, the above conditions may be modified.

3) Topography. Roads shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such roads.

4) Access Management Standards.

1) The DRB may require measures such as speed change lanes, turning lanes, right turn only egress or other design elements necessary to provide for safe circulation on the site and adjoining roads. The DRB may require additional improvements and configuration to improve and facilitate pedestrian access and safety.

2) The DRB may limit access to the property to a side street or secondary road, or previously approved access on the subject property or adjoining properties. Where traffic access is required to only a portion of the land, sharing that access with future uses for the remainder of the parcel may be required.
3) The DRB shall require a common access point to serve multiple properties under single or different ownership in order to limit the number of curb cuts onto major roads and state highways. This condition may be modified where in the opinion of the DRB, topographic or other conditions make such shared access undesirable or impracticable.

5) Dead Ends. No dead-end road shall be permitted without a suitable cul-de-sac at its terminus with a radius of not less than forty (40) feet. Hammerhead, "T" or "Y" design configurations suitable to topography and adequate for emergency vehicles to turn around efficiently may be permitted in lieu of a cul-de-sac.

6) Road Intersections.
1) No road intersection shall be within 100 feet from another road intersection unless the roads directly oppose each other.
2) All road intersections shall be as nearly at right angles as possible.
3) All accesses and intersections must have a safe line of sight so as to prevent the construction of blind or hidden driveways and roads.
   a) A vehicle operator preparing to exit should be able to see unobstructed a minimum of 550 feet in either direction when entering a 50 mph zones. The sight distance drops to 440 feet for a 40-mph zone and 330 feet for a 30-mph zone. Nothing should be erected, placed, planted, or allowed to grow in a triangle of vision so as to impair the vision of the motorist.
   b) No access shall be constructed closer than 550 feet from a sharp curve, hill, or blind area (50 mph zone). This minimum corner distance drops to 440 feet at 40 mph, and 330 feet at 30 mph.

7) Accessibility. All dwellings must be accessible by emergency and service vehicles, with the exception of the outer islands. In determining accessibility, the standards of the most recently updated NFPA 1 Uniform Fire Code will be used as guidance, and local emergency service providers may be consulted for input.

8) Upgrading Existing Driveways and Roads. Applicants shall be required to make improvements to existing roads and driveways according to the following standards:
a) A development that proposes to add a second (2nd) or third (3rd) lot to an existing driveway shall be required to upgrade it to comply with the Driveway Standards in Section 7.7(B).
b) A development that proposes to add the fourth (4th) lot to an existing driveway shall be required to upgrade it to comply with the Road Construction and Design Standards in Section 7.7(C)(1).
c) A development that proposes to add any lot to an existing public or private road (complying or noncomplying), which is deemed inadequate or unsafe based on testimony from the Road Foreman, Fire Department and

Selectboard, may be required to upgrade the road to the extent necessary to serve additional traffic from the proposed development. For Class 4 roads, the DRB may require a memorandum of understanding between the applicant and the Town regarding year-round maintenance of the road.

9) **Curbs, Sidewalks, and Pedestrian Accesses**. Curbs and sidewalks may be required when deemed necessary by the DRB. When required, they shall be constructed to standards established by the Town. In order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width may be required.

SECTION 7.8: SHORELINE PROTECTION

A) Purpose. The Shorelands District is created to protect the natural shoreline vegetation of Lake Champlain from the 95.5' elevation contour inland 500 feet. The development standards in this Section intend to preserve water quality, prevent erosion, and regulate the appearance of shorelines.

B) Reference Section 1: Application of Regulations

C) Setback. All land development shall be setback from the mean water level (elevation 95.5) of Lake Champlain a distance according to Table 5.2, except for those exceptions noted in Section 5.5.

D) Preservation of Natural Shoreline.

1) For all lakefront properties, existing natural shoreline vegetation shall be incorporated into development plans. Tree removal shall be allowed in accordance with the requirements of the Vermont Shoreland Protection Act.
2) The DRB may require restoration of natural shoreline vegetation if it has been substantially damaged or is in violation of these standards.

SECTION 7.9: SIGNS

A) Applicability. A permit issued by the ZA shall be required prior to the erection, construction, or replacement of any outdoor sign, except as exempted in B below.

B) Exemptions. The following are exempt and do not require a permit:

1) Signs erected by the Town or State on public roads;
2) Non-advertising signs placed for directional or safety purposes;
3) Temporary auction, lawn, political or garage sale signs that do not exceed fifteen (15) square feet in total area (all such temporary signs shall be promptly removed when they have fulfilled their function);
4) One temporary real estate or construction sign not to exceed six (6) square feet in area and six (6) feet in height, providing such sign is promptly removed when it has fulfilled its function;

5) Farm signs;
6) A sign no larger than sixteen (16) square feet, which announces the name, address, and profession of the occupant of the premises engaged in a home occupation; and
7) A bulletin board or kiosk no larger than twenty-four (24) square feet may be permitted on the premises of any church, school, or similar public structure.
8) Signs or flags indicating that a business is open and/or the hours of operation, provided such signs or flags are
   a) Limited to one (1) per use (one (1) for hours of operation and one (1) open/closed sign, or one (1) for both);
   b) Are located on the premises of the use for which the sign is advertising;
   c) Do not exceed ten (10) square feet for a flag and four (4) square feet for a sign.

C) Prohibited Signs. The following shall be prohibited in all districts:
1) Signs that impair highway safety.
2) Signs that are animated, flashing, or intermittently illuminated, and signs painted or placed on rock outcrops or similar natural features.
3) Roof signs and wall signs that extend above the roof line.
4) Signs that project over public rights-of-way or property lines.
5) Internally lit signs.

D) Sign Maintenance. All signs shall be of durable materials and shall be maintained in good condition.

E) Business Signs. Signs shall meet the following standards:
1) One free–standing sign is allowed adjacent to a building containing one or more businesses. The maximum size of this sign shall be forty (40) square feet and the maximum height shall be eight (8) feet.
2) One sign per business establishment is allowed to be attached to the building. The maximum size of this sign shall be twenty (20) square feet.
3) The maximum square footage for all signs associated with a building shall be the total of: forty (40) square feet, plus twenty (20) square feet for each business establishment. See examples in Figure 7.9.
4) The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises.

Figure 7.9

Examples of Total Sign Area

- A building with three business establishments may have 1 free-standing sign plus 3 signs attached to the building; therefore the total area of all signs (see H below) may not exceed 100 square feet: 40+20+20+20.

- A building with one business may have a total of 60 square feet of signs: 40+20.

5) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic.
6) Illumination shall be properly focused upon the sign itself.
7) No strings or pennants or similar attention-gathering media are permitted.

F) Off-Premise Signs. Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to state statute and regulation for off-premise signs.

G) Signs at Edge of Highway. Free-standing signs of 8 feet in height or less may be placed at the edge of the highway right-of-way within any required setback area. However, such signs shall not be located within 25 feet of adjacent private property or an intersection.

H) Computation of Sign Area. When computing the total permissible sign area for any use:
1) Existing signs shall be included in the calculation of total sign area.
2) The total area of all signs shall not exceed the requirements as set forth in these regulations.
3) Sign measurement shall be the entire surface area of the sign, exclusive of posts.
4) Signs consisting of free-standing letters, numerals, or other devices shall include any intervening space between them.
5) Back-to-back signs may be counted as one sign.

SECTION 7.10: STORAGE OF SEASONAL VEHICLES AND EQUIPMENT

Seasonal vehicles and equipment should be stored inconspicuously from the roadway as not to impede visibility. Setback requirements must be met.

SECTION 7.11: STORMWATER MANAGEMENT AND EROSION CONTROL

A) Developments shall incorporate temporary and permanent stormwater management and erosion control practices as appropriate for the type and density of proposed development and lot coverage to ensure that the project and subsequent development does not result in soil erosion, the degradation of Lake Champlain and other surface waters and/or hazards to properties within the vicinity. Accordingly:
1) All stormwater management systems shall be designed to:
a) use natural drainage systems to the extent feasible, and minimize the need for system maintenance;
b) maximize on-site infiltration and treatment of storm water, and minimize surface runoff;
c) accommodate anticipated flows, including existing surface water runoff and total runoff generated by the proposed development at build-out, including anticipated flows from storm events;
d) provide storage areas and treatment to manage flows and protect water quality; and

e) avoid damage to adjoining properties and downstream drainage facilities.

2) The DRB may require the submission of stormwater management and/or erosion control plans, prepared by a licensed professional, for all phases of development. Such plans shall incorporate accepted management practices as recommended by the state in the Vermont Stormwater Management Manual, and the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, as most recently amended, and identify the person(s) or organization responsible for system maintenance.
3) The applicant shall demonstrate that existing downstream drainage facilities will be able to accommodate any additional runoff from the development. If increased runoff exceeds the capacity of downstream drainage, storage or treatment facilities, the DRB may require that the applicant phase the development and/or delay construction until such capacity exists, or install off-site improvements as needed to increase downstream capacity.
4) The DRB also may require project phasing to minimize the extent of soil disturbance and erosion during each phase of development.

B) Stormwater management and erosion control shall comply with the requirements of the current version of the Vermont Stormwater Management Manual Rule and Design Guidance. A State stormwater permit may be required. The applicant should contact the Agency of Natural Resources Permit Navigator and Community Resource Specialist for additional information on State stormwater permits.

SECTION 7.12: WASTEWATER SYSTEM (SEPTIC) AND POTABLE WATER SUPPLY

All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants proposing land development that generates wastewater or requires access to potable water must consult the ANR Permit Navigator to determine if such a permit is required.

A) If, according to the ANR Permit Navigator and DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the ZA, which shall be required prior to issuance of a Zoning Permit.

B) Where a Wastewater and Potable Water Supply Permit is required, the Zoning Permit shall be conditioned on the issuance of a final Wastewater and Potable Water Supply Permit under 10 V.S.A. chapter 64. The landowner shall not start building/construction until such permit is provided.

C) It shall be unlawful to use or occupy any new principal structure or accessory dwelling requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the ZA (See Section 4.2).

ARTICLE 8 SPECIFIC USE/STRUCTURE STANDARDS

SECTION 8.1: APPLICATION OF STANDARDS

The ZA and DRB shall evaluate specific uses according to the corresponding standards below. The DRB may require modification of subdivision or site plan design, phasing, or permit conditions to avoid or mitigate any adverse impacts and to ensure conformance with these standards.

SECTION 8.2: ACCESSORY DWELLING UNITS

A) One accessory dwelling may be permitted by the ZA on a property as per 24 VSA § 4412 (E) that is located within or on the same lot as a single-family dwelling.

B) An accessory dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided the ZA specifies upon approval there is compliance with all of the following:

1) The accessory dwelling shall be located within or on the same lot as a single unit dwelling.
2) Floor space shall not exceed 30% of the habitable floor area of the single unit residence or 900 square feet, whichever is greater.
3) The owner must occupy either the primary residence or the accessory dwelling.
4) The property has sufficient wastewater capacity according to Section 7.12.
5) The property meets all of the following applicable Bylaws:
   a) Setbacks, see Bylaw Section 5.5;
   b) Maximum Lot Coverage see Bylaw Section 5.7; and
   c) Parking, see Bylaw Section 7.5.

SECTION 8.3: CAMPGROUNDS, MOBILE HOME PARKS AND TRAVEL TRAILER CAMPS/PARKS

A) Applicability. Campgrounds, mobile home parks and travel trailer camps/parks may be permitted subject to the requirements of this section and State Law.

B) Permits and Approvals.

1) Campgrounds, mobile home parks and travel trailer parks/camps shall be reviewed as a Planned Unit Development by the DRB and shall be subject to the standards in this section in addition to the Planned Unit Development standards in Article 6 and all other applicable provisions of this Regulation. Modifying an existing park by increasing the number of sites, mobile homes or travel trailers permitted in the park also requires PUD review by the DRB. Unless located in the Flood Hazard Overlay District, alterations involving the erection, construction, or placement of accessory structures and the replacement of an existing mobile

home in an existing mobile home park shall not require DRB review; however, a zoning permit is required.

C) Review Standards. The following standards shall ensure public health, safety, and welfare in campgrounds, mobile home parks and travel trailer parks/camps in the Town of North Hero.

1) All parks/camps shall have a contiguous use area of not less than five (5) acres and not more than thirty (30) acres.
2) The maximum density of any mobile home park shall not exceed an overall average of one (1) mobile home per acre. There is no maximum density for campgrounds and travel trailer parks/camps unless set by the DRB.
3) All parks/camps shall maintain a strip of land at least fifty (50) feet wide as a landscaped area abutting all property lines. No campsite, mobile home unit, travel trailer, office, utility or service building may be placed within this buffer area. The DRB may reduce or eliminate this landscaped area requirement if such a modification or waiver will make it possible to preserve a scenic view from the park/camp, provided that privacy for adjacent property owners can be maintained.
4) For mobile home parks, the minimum lot size shall be 20,000 square feet unless a lot is provided with either off-site water or sewer, in which case the minimum lot size shall be 15,000 square feet. For campgrounds and travel trailer parks/camps there is no minimum lot size unless set by the DRB.
5) Each lot in a mobile home park shall have at least fifty (50) feet of frontage on a mobile home park road. There are no frontage requirements for campgrounds and travel trailer parks/camps unless set by the DRB.
6) All internal park/camp roads shall be constructed to the Selectboard's road standards.
7) A non-porous pad, at least four (4) inches thick shall be provided for each mobile home lot.
8) A minimum yard setback of 15 feet and a minimum setback from the access road of 20 feet are required on each mobile home park lot. There are no setback requirements for campgrounds and travel trailer parks/camps.
9) Sewage disposal, water supply and garbage facilities shall comply with state regulations.
10) The DRB shall have power to impose reasonable conditions as to the amount, ownership, use, and maintenance of open space and recreation as it deems necessary to assure the preservation of such lands for their intended purpose.

SECTION 8.4: EARTH RESOURCE EXTRACTION

A) Applicability. Earth resource extraction includes the commercial extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas. It may also include preparation activities such as crushing and washing customarily part of earth resource extraction activities. Earth Resource Extraction requires Conditional Use Review in specified zoning districts according to Table 5.1.

1) Unless approved as Earth Resource Extraction under this Section, the removal of earth resources including sod, topsoil, loam, fill, sand, shale, gravel or quarried stone is prohibited except when in connection with permitted land development such as the construction of a building on the same lot or a farm operation, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.

B) Application Requirements. In addition to Conditional Use application requirements, earth resource extraction proposals shall be prepared by a Vermont Licensed Engineer and include:

- the depth of excavation;
- existing grade and proposed grade created by removal or addition of material;
- proximity to roads and adjacent properties;
- the average amount of earth resource to be extracted on a monthly or annual basis;
- the hours of operation and seasons of use;
- the expected duration of operation;
- the number of truck trips per day traveling to/from the extraction site;
- an erosion and sediment control plan to be following while the extraction operation is active; and
- a reclamation plan that addresses grading, seeding, mulching, planting, fencing, drainage, and other measures.

C) Review Standards. The DRB shall find that the plan does not cause any undue adverse effect to health or property based on the Conditional Use Review standards and the following additional standards.

1) The operation shall not have an adverse effect upon the use of adjacent property or town roads due to noise, dust, or vibration.
   a) Within the required setback areas, the natural vegetation shall be retained, and supplementary planting or other screening may be required in order to buffer impacts from the operation.
   b) Location of power-activated sorting and crushing machinery and equipment shall comply with the current Mine Safety and Health Administration (MSHA) requirements.
2) The operation shall not create traffic hazards or excessive congestion or physical damage to public highways and expected routes of truck traffic.
3) All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.
4) Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
5) Explosives may be used only per a plan approved by the DRB.
6) The operation shall prepare a site rehabilitation plan that when followed will reclaim the site by removing all debris, leveling all cut slopes and soil banks and grading to an even low angle, and establishing a firm cover of grass or other vegetation sufficient to prevent erosion. The DRB may require the posting of a

bond to assure such rehabilitation.

SECTION 8.5: FAMILY CHILD CARE HOME OR FACILITY

A) A family child care home or facility means a home or facility where the owner or operator is to be licensed or registered by the state for childcare.
   1) A family child care home serving no more than six (6) full-time children and four (4) part-time children is considered a permitted single-family residential use of property. As long as a valid zoning permit is in place for a single-family dwelling, no additional permit or approval is required. Any new structural alterations or other land development that would otherwise require a permit still requires a permit.
   2) Family child care homes or facilities that serve more than six (6) full-time and four (4) part-time children shall be considered a Personal or Professional Service under these Regulations (see Table 5.1).

SECTION 8.6: GASOLINE STATIONS AND MOTOR VEHICLE SERVICE STATIONS

Gas and Motor Vehicle Service Stations, when allowed according to Table 5.1, must comply with all applicable Vermont and Federal regulations and meet the following standards:

A) A gasoline station lot cannot be located within five hundred (500) feet of any lot occupied by a school, public building, library, hospital, or religious institution.

B) Minimum lot size is one and one-half (1.5) acres and both lot depth and width shall not be less than two hundred (200) feet (this standard shall apply over Table 5.2).

C) No fuel or oil storage nor any pumps, lubricating or other service equipment can be located within fifty (50) feet of any property line.

D) All motor vehicle parts, dismantled vehicles, junk and trash must be stored within a building and no repair work can be performed outside of a building.

E) There can be no more than two (2) access driveways and a suitable curbed landscape area of at least six (6) feet in depth is to be provided and maintained along all frontage not used by the access driveways.

SECTION 8.7: GROUP HOMES

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered by right, to constitute a permitted single-family residential use of property (i.e. Once a zoning permit for a single-family residential use of property has been obtained, no permit is required for such a group

home on that property, although any new structures or structural alterations that would otherwise normally require a permit still require a permit). The only exception is that no such home shall be so considered if it is located within one thousand (1,000) feet of another existing or permitted such home. Licensed or registered group homes serving more than eight persons who have a handicap or disability shall be considered Congregate Care Facilities under these regulations.

SECTION 8.8: HOME BASED BUSINESSES

A) Home Businesses. A Home Business shall not require a Zoning Permit in any district and shall be considered to be part of a residential use. A Home Business is a use of an accessory building or minor portion of a dwelling for a business that exhibits no external indications that a business exists. Home Businesses must meet all of the following standards:

1) There are no employees other than members of the household.
2) The Home Business is not visible from outside the home or accessory building.
3) The Home Business does not generate additional traffic.
4) The Home Business has no impact on the character of the neighborhood.
5) The Home Business has no signs.
6) The Home Business has no external storage of materials or equipment.
7) The Home Business produces no objectionable noise, smoke, vibration, dust or odors discernible on any adjoining property.

B) Home Occupations. Home Occupations require a Zoning Permit. Any resident of a dwelling may use a minor part of the residential property for an occupation which is customary in residential areas, does not involve retails sales, and which does not change the character of the residential area providing all of the following standards are met:

1) The Home Occupation is carried on wholly within the principal dwelling or accessory structures.
2) The Home Occupation is carried on only by residents of the premises and not more than one (1) additional full-time or part-time employee who is not a resident of the home.
3) Exterior storage of material is not permitted unless adequately screened from view from adjacent properties, roads and the Lake. Exterior storage is prohibited in setback areas.
4) The Home Occupation does not generate a greater volume of traffic than would normally be expected in the neighborhood.
5) There shall be no exterior displays, except that one unlit sign not exceeding four (4) square feet per side is allowed.
6) The Home Occupation does not cause any objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare.
7) Off-street parking spaces shall be provided according to Section 7.5. Parking shall be located in side or rear yards outside setback areas. However, existing residential parking areas may be utilized.

8) The Home Occupation does not utilize a square footage that is larger than twenty-five (25) percent of the total area of the principal dwelling.

C) Home Occupations with Two or Three Employees. A Home Occupation having 2 or 3 non-family full-time equivalent employees may be permitted after Conditional Use Review by the DRB. The DRB shall find that the Home Occupation complies with the standards in (B) 3-7 above in addition to the Conditional Use Review standards in Section 6.1. In addition to the Conditional Use application materials listed in Section 6.1, applications for Home Occupations with Two to Three Employees shall provide:

1) A description of all activities, existing and proposed, specifying which shall be carried on outside of the principal dwelling or accessory structures.
2) A description of all exterior storage of material, machinery, and/or vehicles, and the location of where it is to be stored.
3) The size, location and use of any exterior displays or advertisements.
4) A description of hours of operation, and specifically any activity which might result in objectionable noise, vibration smoke, dust, electrical disturbance, odors, heat or glare.

SECTION 8.9: LIGHT INDUSTRY AND COMMERCIAL ACTIVITY

Light Industry and Commercial Activity as listed in Table 5.1 must meet the requirements for Conditional Use Review, including preparation of a site plan, as found in Section 6.1.

SECTION 8.10: MARINAS, YACHT CLUBS AND RESIDENTIAL MARINE ASSOCIATIONS

A) Applicability. In addition to the Conditional Use Review standards, marinas, yacht clubs and residential marine associations shall comply with the specific standards in this section.

1) A ***marina*** is a business whose purpose is the sale, servicing, launching, or rental of boats and/or the sale or rental of moorings or docking berths. A marina may also include services ancillary to the marina operation such as retail, repair, food, laundry facilities, etc.
2) A ***yacht club*** is a facility similar to a marina but operated on a non-profit basis for the benefit of members or associates. The land may be held or controlled by either an individual or a business entity. A yacht club may also include services ancillary to the yacht club such as retail, repair, food, laundry facilities, etc.
3) A ***residential marine association*** is any commonly held shoreline property which is a common element of or an appurtenance to a residential development on the same or adjacent property that provides access to the shoreline for more than two (2) residences.

B) Review Standards for Marinas and Yacht Clubs. Marinas and yacht clubs must comply with the following standards, except that for a yacht club the DRB may grant an exemption from any standard in this Section, at the request of the applicant, if the DRB finds that such standard is not applicable and does not nullify the intent of these Regulations or the Town Plan. Marinas and yacht clubs require Conditional Use Approval, including preparation of a site plan, in accordance with Section 6.1.

1) **Shoreline Frontage.** Marinas and yacht clubs require a minimum of 200 feet of consecutive shoreline frontage.

2) **Parking, Storage and Circulation Standards**. The site plan shall indicate a plan for parking; storage of boats, dinghies, and other marina equipment; and onsite circulation in conformance with the following standards.

   a) **Parking**. Marinas and yacht clubs shall comply with the off-street parking requirements of Section 7.5 and this section. Parking areas shall be setback 25 feet from all property lines and the Lake. Parking spaces intended for vehicles and boat trailers shall be adequately sized (approximately 10 feet by 40 feet). The DRB may approve shared parking spaces for those spaces used primarily in the summer and those used for winter storage.

   b) **Storage of Boats and Dinghies**. Boat and dinghy storage areas shall be designated on the site plan. Boat and dinghy storage areas shall be setback at least 25 feet from all property lines and the Lake, except that dinghy storage areas are exempt from the 25-foot setback from the Lake.
      i) **Overnight/Long-term Storage.** The DRB may allow overnight and/or long-term storage of boats if designated to a specific area on the site plan. Winter storage areas shall include adequate space for parking and access to stored boats.
      ii) **Temporary Habitation on Stored Boats.** The DRB may allow temporary habitation (not more than 30 consecutive days) on stored boats provided that onsite restrooms are made available.

   c) **Onsite Circulation**. The site plan shall indicate on-site vehicular and pedestrian circulation with adequate access provided for all site amenities, including the pump out station and fuel storage area. Adequate space shall be provided for launching and servicing boats so as not to interfere with the public right-of-way.
      i) **Pedestrian Accessibility**. The site plan shall include designated pedestrian paths to and from buildings and bathroom facilities, parking areas, moorings and docking berths, and to adjacent properties. Crosswalks may be required for marinas and yacht clubs bisected by a road or where it is appropriate to provide safe access to adjacent uses.

   d) **Fuel storage areas** shall be located in containment structures sufficient to contain fuel spillage from tanks and shall meet EPA standards.

3) **Waste Management**. A plan for managing and disposing of trash, fuel and oil, cleaning materials, paint, and sewage is required. This shall include an on-shore, on premises holding tank for receiving boat sewage. A minimum of two (2) toilets for use by customers, members or associates is required.

4) **Stormwater Management**. In addition to the standards in Section 7.11, if a marina will provide boat washing it must be designated to a limited area on the site plan and adequate stormwater management shall be provided to prevent run-off into the lake.

5) **State and Federal Permits.** It shall be a condition of every permit that all State and Federal permits are filed by the applicant with the Town of North Hero land records and zoning office.

C) **Review Standards for Residential Marine Associations.** Residential marine associations shall comply with the following standards.
1) Residential Marine Associations on undeveloped properties require a minimum of 100 feet of consecutive shoreline frontage. Residential Marine Associations on developed lots require a minimum of 200 feet of consecutive shoreline frontage.
2) Residential marine associations are strictly limited to use by the residences in the associated residential development and their guests according to and limited by recorded covenants in the land records.
3) Residential marine associations shall not provide or allow ancillary services, such as retail, repair, food and laundry facilities, which are allowed for marinas and yacht clubs, unless otherwise permitted in conformance with these regulations.
4) The DRB shall require designated parking spaces to ensure efficient and safe vehicular circulation if the level of use and site layout warrants it.

SECTION 8.11: PUBLIC FACILITIES

A) In accordance with the Act (Section 4413), the following public facilities may be regulated, subject to Conditional Use Review only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:

1) State or community owned and operated institutions and facilities;
2) Public and private schools and other educational institutions certified by the Vermont Department of Education;
3) Churches and other places of worship (see definitions), convents, and parish houses;
4) Public and private hospitals;
5) Regional solid waste facilities certified by the State (10 V.S.A. chapter 159);
6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law (10 V.S.A. 6606a); and

7) Emergency shelters.

B) Except for State-owned and -operated institutions and facilities, uses located in the Flood Hazard Overly District shall also be reviewed according to standards in Article 10 only to the extent that the regulations do not have the effect of interfering with the intended functional use.

SECTION 8.12: SHORELINE STABILIZATION MEASURES

A) Shoreland stabilization measures shall conform to the requirements of the Vermont Shoreland Protection Act and/or Wetland Rules and/or USACE.

B) Reference Section 1: Application of Regulations

C) For guidance on shoreline stabilization measures, refer to the Vermont BioEngineering Manual: A Technical Manual for Lakeshore Contractors and Homeowners.

SECTION 8.13: SMALL OFF-GRID ENERGY GENERATION SYSTEMS

A) Purpose and Applicability. The purpose of this Section is to promote the safe, effective and efficient use of small off-grid energy systems which are not regulated by the Vermont Public Utility Commission.

B) Off-Grid Solar Arrays. Solar arrays may be attached to a building or be free-standing with a support structure. Solar arrays attached to a flat roof (5 degrees or less) of a building are exempt from regulation. All other types of off-grid solar arrays require a permit. All solar arrays shall meet the following standards.

1) The minimum setback from property lines shall be equal to or greater than the height of the array.
2) Solar arrays shall comply with all required state and federal codes and regulations, including the FAA Regulations and the National Electrical Code.

C) Small Off-Grid Wind Energy Generation Systems. Small off-grid wind energy systems are a Conditional Use in all zoning districts except the Conservation District where they are prohibited.

1) Application requirements. Applications for wind energy generation systems shall include standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a qualified environmental professional shall also be submitted.
2) Standards of Review. In addition to the Conditional Use Standards in Article 6.1, the proposed small off-grid wind energy systems shall comply with the following standards.

a) Tower Height: For property sizes between ½ acre and one acre the tower height shall be limited to 80.0 ft. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA Regulations.
b) Setback: The tower base shall be setback a distance no less than the tower height (including blade, rotor, or other vertical elements), which shall create a fall zone entirely on the landowners property. Guy wire anchors and other accessory elements may extend to the setback for the Zoning District in which it is located.
c) Noise: Small off-grid wind energy systems shall not exceed 60.0 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
d) Compliance with State and Federal Codes and Regulations: Small off-grid wind energy systems must comply with all required state and federal codes and regulations, including the FAA Regulations and the National Electrical Code.

SECTION 8.14: RV AND TRAVEL TRAILERS

A) A travel trailer is designed for short-term occupancy. As used in these Regulations, the term “travel trailer” also includes but is not limited to a camper trailer, motor home, recreational vehicle, tent trailer and truck camper.

The owner of a travel trailer may store it on his/her own property as inconspicuously as possible in accordance with the setback requirements for the specific zoning district and the standards included in this Section.

B) A legally registered travel trailer designed and manufactured for recreational camping uses, may be stored or parked on a developed residential lot provided it meets the following requirements:
1) It shall not be permanently attached to the land.
2) It shall not be occupied for residential use while on the lot.
3) It shall not be attached to a septic system.
4) There shall not be more than two such units on a lot.
5) Such use shall not conflict with any provision of this Regulation.

C) A legally registered travel trailer designed and manufactured for recreational camping uses, may be placed on an undeveloped lot and used for limited seasonal occupancy provided it meets the following requirements:
1) It shall not be permanently attached to the land.
2) It may be occupied seasonally (for not more than a total of 180 days between May 1 and November 30 and no more than 60 days between November 1 and May 31) if it is hooked up to a water supply and a legally existing septic system that has been continuously used for that purpose, or a system approved under these regulations.
3) There shall not be more than one such unit on a lot.

4) Such use shall not conflict with any provision of this or other applicable regulations.

D) A legally registered travel trailer designed and manufactured for recreational camping purposes, may be placed on an undeveloped lot and used for recreational camping purposes, only, provided it meets the following requirements:
   1) It shall not be permanently attached to the land.
   2) It may be occupied for recreational camping purposes, only, for not more than a total of 180 days between May 1st and November 30th if it is not hooked up to a water supply or septic system.
   3) It has a self-contained storage tank for waste water, which is either emptied off site in an approved disposal facility or the owner and occupant enters into a service contract with an approved hauler for collection and disposal off site in an approved facility, OR, an approved self-contained port-a-let is provided on site and the owner or occupant enters into a service contract with an approved hauler for collection and disposal off site in an approved facility
   4) There is not more than one unit on a lot.
   5) Such use does not conflict with any provision of this or any other applicable regulations.

SECTION 8.15: WIRELESS TELECOMMUNICATION FACILITIES

New or expanded wireless telecommunications facilities that are not subject to 30 V.S.A. Section 248, including but not limited to towers and accessory structures, are subject to Conditional Use Review and the provisions of this Section. In conformance with 24 V.S.A. § 4412(9), the DRB may permit new or expanded telecommunications facilities if the DRB finds that the facility will impose not more than a de minimus impact on the conditional use standards in Section 6.1 and the criteria in (F) below.

A) The following requires a Certificate of Public Good from the Department of Public Service under 30 V.S.A. Section 248, which preempts these Regulations:
   1) Placement of wireless telecommunications facilities on electric transmission or generation facilities; and
   2) Single application to construct or install 3 or more telecommunications facilities, each at least 50.0 ft. above ground level, within 3 years as part of a network.

B) No Zoning permit shall be required for the following:
   1) Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
   2) Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.

3) Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100.0 feet in height.

C) Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed the requirements in (B) above but do not exceed 100 feet in height are exempt from the provisions of this Section, but require a Zoning Permit as an accessory structure.

D) Supplemental Application Requirements. In addition to the application requirements required for Conditional Use Review a wireless telecommunication facility permit application shall also include:
   1) A location map showing the general area within a 2-mile radius of the facility.
   2) A vicinity map showing the entire vicinity within a 2,500-foot radius of the facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings, structures, utilities, water bodies, wetlands, 50-foot contour lines, landscape features, historic sites, and significant wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of- way needed for access from a public way to the facility.
   3) Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans except the vicinity map shall be drawn at a minimum scale of 1 inch = 50 feet.)
   4) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
   5) A report from a qualified Vermont Licensed Engineer that:
      a) Describes any tower's design and elevation.
      b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.
      c) Describes a tower's capacity, including the number, elevation, and types of antennas that the tower is proposed to accommodate.
      d) In the case of new facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
      e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
      f) Describes the output frequency, number of channels, and the power output per channel for each antenna. As an alternative, a coverage map may be provided.
      g) Demonstrates the facility's compliance with the standards set forth in these Regulations or other applicable standards.
      h) Provides proof that at the proposed facility site the applicant will be in compliance with all FCC Regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain

compliance with all FCC Regulations, standards and requirements for radio frequency radiation (RFR).

6) A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC Regulations, standards and requirements and the provisions of these bylaws and all other applicable laws.
7) In the case of an application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure.
8) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the facility, or a written statement by the applicant that an EA is not required for the facility.

E) Construction Standards. Telecommunications facilities shall conform to the following construction standards:

1) The facility will not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
2) The facility will not project more than 20 feet above the average elevation of the tree line measured within 100 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate telecommunication service capacity or coverage to North Hero, or to accomplish co-location.
3) All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
4) The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
5) The DRB may require the applicant to provide a bond, or other form of financial guarantee acceptable to the DRB, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the ZA showing that it is in compliance with all FCC standards and requirements

regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.

7) The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
8) The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
9) The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
10) Unless otherwise approved by the DRB, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the DRB for an extension for removal. If the facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the DRB may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
11) Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

F) Additional Conditional Use Criteria. In addition to the Conditional Use Standards in Section 6.1 and the construction standards in (E) above, the DRB shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

1) The facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
2) The facility will not have an undue adverse aesthetic impact. In determining this, the DRB shall consider the following factors:
    a) The results of a balloon test, if conducted.
    b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
    c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
    d) The degree to which the facility will be screened by existing vegetation, topography, or existing structures.
    e) Background features in the line of sight to the facility that obscure or make the facility more conspicuous.
    f) The distance of the facility from the point of view and the proportion of the facility that is above the skyline.
        i) The sensitivity or unique value of a particular view affected by the facility.
        ii) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
3) The facility will not generate undue noise.

SECTION 8.16: HELIPADS AND PRIVATE LANDING STRIPS

Helipads and private landing strips are prohibited.

SECTION 8.17: SEASONAL TO YEAR-ROUND CONVERSION

A seasonal dwelling unit may be converted to a single or two-family household dwelling if the ZA determines that the conversion meets all of the following requirements:

A) The proposed conversion to a year-round dwelling shall be subject to all requirements of these regulations pertaining to such use, including but not limited to any district, access, parking and water and wastewater requirements, as well as any other applicable town, state or federal regulations currently in effect.

B) Said conversion requires a zoning permit issued by the ZA in accordance with Section 2.3 and Section 4.1 A) and C).

C) Certificate of Occupancy requirements found in Section 4.2 A Certificate of Occupancy must be followed.

D) The structure shall have habitable floor space which shall be suited for year-round occupancy (e.g., insulation, heating and indoor plumbing facilities)

E) An adequate water and wastewater system shall be provided in accordance with Section 7.12.

ARTICLE 9: NONCONFORMITIES

SECTION 9.1: NONCONFORMING LOTS

Pre-Existing Lots

A) Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim 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 minimum lot size requirements of the new bylaw or interim bylaw provided such lot is not less than one-eighth acre in area and not less than forty feet in width and depth. (See also Section 5.5(E)).

B) If a pre-existing small lot comes under common ownership with one or more contiguous lots, it shall be deemed merged with said contiguous lot unless the small lot is developed and contiguous to a legal undeveloped lot. Deemed merging happens in the following situations:
   1) Contiguous undeveloped small lots under the same ownership,
   2) An undeveloped small lot contiguous to a developed small lot under the same ownership,
   3) A small undeveloped lot contiguous to a developed legal lot under the same ownership, and
   4) A small undeveloped lot contiguous to a legal undeveloped lot under the same ownership.

C) However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
   1) The lots are conveyed in their preexisting, nonconforming configuration.
   2) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

SECTION 9.2: NONCONFORMING STRUCTURES AND USES

A) Applicability. Nonconforming structures and uses are those that were in existence before the effective date of these Regulations, which do not conform to the requirements set forth in these Regulations. Structures located on pre-existing small lots, which otherwise conform to these Regulations, including setbacks, are not considered nonconforming. Structures and uses improperly authorized as a result of error by the ZA are nonconforming.

B) Continuation of Nonconforming Structures and Uses.

1) Nonconforming Structures. No provision of these Regulations shall prevent the normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformance.

2) **Nonconforming Uses**. Any non-conforming use of a structure or of land may be continued indefinitely except that a non-conforming use shall not be reestablished after being abandoned for a period of one year, or after being changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so. A non-conforming use is considered abandoned when one of the following occurs:
   a) The characteristic activity, equipment and/or furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within one (1) year.
   b) It has been changed to another use under an approved permit.

C) Improvements to Nonconforming Structures and Uses.

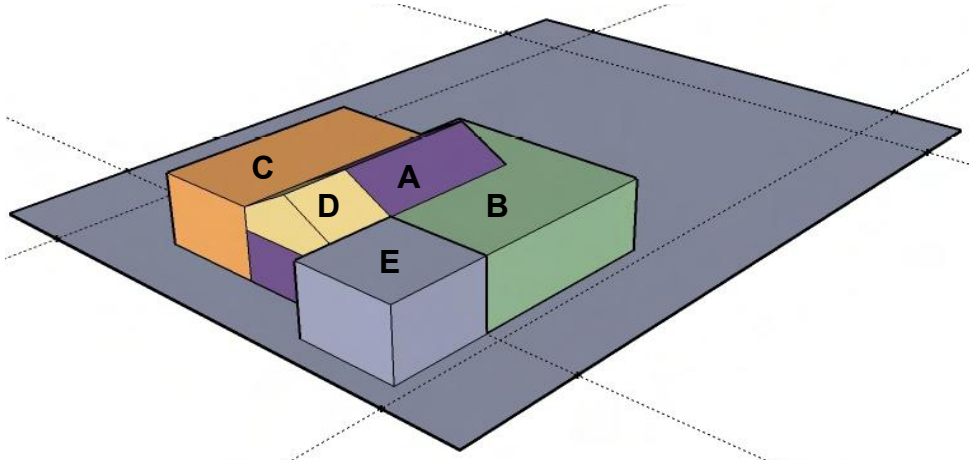
1) **Nonconforming Structures**. The ZA may approve improvements to non-conforming structures provided that the improvement does not increase the degree of non-conformity through issuance of a Zoning Permit in accordance with these Regulations. The DRB may approve improvements to nonconforming structures that increase the degree of nonconformity as a conditional use only if required to comply with environmental, safety, health or energy codes, laws or regulations. See Figure 9.2 for an illustration of increasing the degree of nonconformity. Nonconforming structures are eligible for a setback waiver in certain instances (see Section 6.2 Setback Waivers).

2) **Nonconforming Uses**. Nonconforming uses shall not be expanded or changed without Conditional Use Approval from the DRB in accordance with this Section. In addition to the Conditional Use Standards in Article 6.1, the DRB shall apply the following standards:
   a) Nonconforming uses shall not be expanded. Improvements that enlarge footprint area to structures occupied by nonconforming uses are prohibited. The DRB may approve an improvement to a nonconforming use that does not expand the use or enlarge footprint area, such as changing a sign.
   b) A non-conforming use may change to another use only if in the opinion of the DRB the new use is in greater compliance with these Regulations.

D) Nonconformities in a Mobile Home Park. If a mobile home park, as defined in 10 V.S.A. chapter 153, is a nonconformity, the entire mobile home park shall be treated as a nonconformity, and individual lots within the mobile home park shall in no event be considered nonconformities. Its status regarding conformance or nonconformance shall apply to the parcel as a whole, and not to any individual mobile home lot within the park. An individual mobile home lot that is vacated shall not be considered a discontinuance or abandonment of a nonconformity.

Figure 9.2 Increasing the Degree of Nonconformity of a Structure

The building 'A' is the original nonconforming structure because it encroaches into the setback. Additions 'B', 'C' and 'D' are allowed under these regulations because they do not encroach further into the setback than Building 'A'. Addition 'E' is not allowed under these regulations because it encroaches further into the setback than Building 'A'.



ARTICLE 10: FLOOD HAZARD REGULATIONS

SECTION 10.1: LAND TO WHICH THESE STANDARDS APPLY

These standards shall apply to development in the Flood Hazard Overlay District, which is measured from the 102' elevation contour. This District is mapped as the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753, which are hereby adopted by reference and declared to be part of these regulations.

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

A) Base Flood Elevations & Floodway Limits shall be determined as follows:

1) Base flood elevations 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. Flood Hazard Area District boundaries shall be determined by the ZA. Appeals with respect to the District Boundaries (Section 3.1) can be made to the DRB in accordance with Section 2.5.
2) Floodway limits are not required for the flood hazard zone A2 located on Lake Champlain as shown in the NFIP Study and accompanying maps.
3) In the Flood Hazard Overlay District where base flood elevations have not been provided by the NFIP 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 to administer this bylaw.
4) If the Town acquires data that indicates a change in published base flood elevations, the Town will, within 6 months, submit the technical or scientific data to Vermont ANR and the NFIP Map Specialist.

B) Warning and Disclaimer. The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of North Hero or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

SECTION 10.2: DEVELOPMENT PERMITS IN THE FLOOD HAZARD OVERLAY DISTRICT

A permit is required for all development within the Special Flood Hazard Area. For the purposes of this Section, development is defined as 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 in accordance with Federal Regulations Title 44 CFR 59.1.

A) Within the Special Flood Hazard Area:

1) Permit required from ZA:
   a) Lake Access Structures
   b) Improvements to existing roads
   c) Non-substantial improvements to existing structures
   d) New or replacement storage tanks for existing structures
   e) Recreational vehicles

2) Permit issued after Conditional Use Review by DRB:
   a) Substantial improvements to existing structures
   b) Marinas, Yacht Clubs and Residential Marine Associations
   c) Accessory Structures
   d) Shoreline Stabilization Measures
   e) Bridges, culverts, or public projects which are functionally dependent on lake access or crossing
   f) Grading, excavation or the creation of a pond
   g) Public utilities

B) Prohibited Development throughout Special Flood Hazard Area:

1) The following are prohibited throughout the Special Flood Hazard Area:
   a) Storage of any explosive, flammable, hazardous, toxic, or floatable materials, or junk yards;
   b) Critical facilities;
   c) All development not exempted, permitted, conditionally permitted, or allowed as a nonconforming use; and,
   d) New fill except where necessary to elevate structures to meet the Development Standards.

C) Certificates of Occupancy. All development subject to review under this article shall also be subject to the requirements in Section 4.2.

SECTION 10.3: APPLICATION REQUIREMENTS

A) In addition to the application requirements in Section 6.1, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
   1) Where applicable, a site plan that depicts the proposed development, all water bodies, Flood Hazard Overly District boundary, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, pre and post development grades, the elevation of the proposed lowest floor (as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps), and any other information required by the Development Review Board to ensure compliance with Section 10.4 and any other applicable sections of these regulations.
   2) A copy of the ANR Permit Navigator Results Summary.

B) Referrals.
   1) Proposals for development within the Special Flood Hazard Area must be submitted by the ZA or DRB to the Vermont Agency of Natural Resources for comment in accordance with 24 V.S.A. §4424(D). A zoning application shall not be considered complete until such comments have been received or 30 days has elapsed since the application was submitted, whichever is sooner.
   2) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

SECTION 10.4: FLOOD HAZARD AREA DEVELOPMENT STANDARDS

A) All Development:
   1) All development in the Special Flood Hazard areas shall be reasonably safe from flooding and:
      a) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
      b) Constructed with materials resistant to flood damage;
      c) Constructed by methods and practices that minimize flood damage; and
      d) 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.
      e) Adequately drained to reduce exposure to flood hazards.
      f) 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) Residential Development:

1) New construction and existing buildings to be substantially improved that are located in the Flood Hazard Areas shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
2) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

C) Non-residential Development:

1) New construction located in the Flood Hazard Areas shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
2) Existing buildings to be substantially improved located in the Flood Hazard Areas shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes).
3) A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

D) Subdivisions:

1) New subdivision developments (including planned unit developments and manufactured home parks) of more than 5 acres or 50 lots, whichever is less, shall be designed to assure:

a) Such proposals minimize flood damage within the flood-prone area,
b) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
c) adequate drainage is provided to reduce exposure to flood hazards.

E) Enclosed Areas Below the Lowest Floor:

1) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
2) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings 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.

F) Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:

1) be on the site for fewer than 180 consecutive days,
2) be fully licensed and ready for highway use, or
3) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section 10.4 B(2).

G) Accessory Structures and Lake Access Structures: Small accessory buildings and lake access structures that represent a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

1) The structure must only be used for parking, storage, or lake access;
2) The structure must have the required openings to allow floodwaters in and out,
3) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
4) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
5) All building utility equipment including electrical and heating must be elevated or floodproofed.

H) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

I) Sanitary Sewage Systems: New and replacement 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.

J) On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K) Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

SECTION 10.5: STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES.

A) The DRB may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:
   1) The DRB finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
   2) The DRB finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.
   3) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the regulations pertaining to that area, and will be maintained at the risk of the owner.

SECTION 10.6: VARIANCES TO THE DEVELOPMENT STANDARDS.

Variances shall be granted by the DRB only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:

A) Variances are generally limited to a lot size less than one-half acre relating to historical structures (provided the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure), or a necessary development functionally dependent on stream access;

B) The variance, if authorized shall be issued by the DRB only upon:
   1) Determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
   2) Determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety

or infrastructure (including emergency services during flood events), or extraordinary public expense;
3) The variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others;

C) The variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan;

D) Any variance issued 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.

SECTION 10.7: RECORDING REQUIREMENTS

The ZA shall maintain a record of development within the Flood Hazard Area Overlay District including:

A) All permits issued for development in areas of special flood hazard;
B) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
C) The elevation, in relation to mean sea level, to which buildings have been floodproofed shown in an elevation certificate for new or substantially improved structures;
D) All flood proofing certifications required under this regulation; and
E) All variance actions, including justification for their issuance.

SECTION 10.8: VIOLATION OF FLOOD HAZARD AREA REGULATIONS

A) Where a violation of the Flood Hazard Overlay District standards and regulations has not been cured after a warning notice has been sent in accordance with the Act, the ZA shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:
   1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
   2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance,
   3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority,
   4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and

5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

SECTION 10.9: FLOOD HAZARD DEFINITIONS

Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Article 11.

AREA OF SPECIAL FLOOD HAZARD: Special flood hazard area.

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

BASE FLOOD ELEVATION (BFE): The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

BASEMENT: Any area of the building having its floor elevation below ground level on all sides. A “walk-out” basement whose floor is at ground level on at least one side of the house, usually with a door on that side is not considered a "basement" for the purpose of the flood hazard regulations.

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

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

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

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots

on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

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

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

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

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

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels

FLOOODWAY, REGULATORY IN THE TOWN OF NORTH HERO: The regulatory floodway in of the Town of North Hero is 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.

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

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

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

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

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

MINOR IMPROVEMENT: Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, "new construction" means structures, including manufactured homes, for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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

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

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

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

STRUCTURE: A walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks.

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

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

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

ARTICLE 11: GENERAL DEFINITIONS

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. The word "shall" is mandatory and the word “may" is permissive. Where doubt exists as to the precise meaning of any word or words in these Regulations, the DRB shall rule on the interpretation.

ACCESSORY STRUCTURE/USE: See Structure/Use, Accessory.

BED AND BREAKFAST: Overnight accommodations and a morning meal in a single unit residence provided to transients for compensation.

BUILDING: Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING, ACCESSORY: See Structure, Accessory.

CAMPGROUND: A recreational campground or camping park where transient residence is offered or provided for seasonal or short-term vacation or recreational purposes on which may be located cabins, tents, or lean-tos, or campsites designed for temporary set-up of portable or mobile camping, recreational, or travel dwelling units including tents, campers, and recreational vehicles such as motor homes, travel trailers, truck campers, and van campers.

CASUAL SALES (GARAGE SALE): The occasional (not more than six (6) days per year) sale of goods on one’s own residential property. Casual sale includes garage sales, yard sales, lemonade stands, and the like.

COMMERCIAL USE: An activity involving the sale of goods or services carried out for profit.

CONGREGATE CARE FACILITY: A facility licensed by the state which provides primarily non-medical residential care services to 9 or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed by the facility, on a 24-hour a day basis. See also Personal or Professional Service.

DAYCARE CENTER: Any establishment, whether providing services in-home or in a separate non-residential facility, providing childcare service on a regular or continual basis for a fee and does not meet the definition of a Family Childcare Home. See also Personal or Professional Service.

DOCK: A wharf, pier, or other structure permanently or temporarily anchored to the shore and projecting into the Lake.

DRIVEWAY: A driveway is an entrance or exit used by vehicular traffic to or from lands or buildings, regardless of material used.

DWELLING, SINGLE UNIT: A structure containing one dwelling unit.

DWELLING, TWO UNIT: A structure containing two dwelling units, including units that are located one over the other and units in a row separated by one or more vertical common fire-resistant walls.

DWELLING, MULTI-UNIT: A structure containing three or more dwelling units, including units that are located one over the other and units in a row separated by one or more vertical common fire-resistant walls.

DWELLING, ACCESSORY: An efficiency or one bedroom apartment located within or appurtenant to a single unit dwelling, that is clearly subordinate to a single unit dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

EARTH RESOURCE EXTRACTION: The commercial extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas. It may also include preparation activities such as crushing and washing customarily part of earth resource extraction activities. See also Light Industry.

FAMILY CHILDCARE HOME: A business providing childcare service within the provider's place of residence to not more than 6 full time children and 4 part time children on a regular or continual basis for a fee, which is considered to constitute a permitted single family residential use of property.

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

GAS / MOTOR VEHICLE SERVICE STATION: Any building, land area or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and/or the servicing and repair of automobiles.

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

HOME BUSINESS: Home Business is a use of an accessory building or portion of a dwelling for a business which exhibits no apparent indications that a business exists. Uses otherwise listed in Table 5.1may qualify as a Home Business if they meet the requirements of Section 8.9.

HOME OCCUPATION: Use of a portion of a residential lot by a resident for an occupational business with not more than one non-family full time equivalent employee, and which could normally be expected to be customarily located in the area and that will not change the character of the neighborhood. Home Occupations do not generate more than an average of 10 vehicle trips per weekday. Uses otherwise listed in Table 5.1 may qualify as a Home Occupation if they meet the requirements of Section 8.9.

LAKE ACCESS STRUCTURE: A stairway or pedestrian ramp, boat launch ramp, dock or other structure constructed to gain access to the lakeshore.

LAND DEVELOPMENT: The division of a parcel into two (2) or more parcels; the new construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; any mining or earth resource extraction; or any change in the use of any building, other structure, or land, or extension of the use of land.

LAND USE. How a parcel of land, including any structures located thereon, is being used. Table 5.1 identifies different types of land uses.

LAND USE, ACCESSORY: See Structure, Accessory.

LAND USE, PRINCIPAL: A use directly involved with the primary purpose of ownership on a particular lot.

LIGHT INDUSTRY: A light industrial facility that meets the performance standards and any other applicable standards in these Regulations, including such uses as manufacturing, wholesale trade, saw mills, slaughter houses, and earth resource extraction.

LODGING ESTABLISHMENT: Building or buildings containing rooms which are rented for money or other compensation as sleeping units for transients, each sleeping unit consisting of, at the least, a bedroom and a bathroom (shared bathrooms are also permitted).

LOT: See Parcel.

LOT SIZE: The total area within the lot lines of a lot, including any road rights-of-way.

LOT FRONTAGE: The length of the lot line measured at the road right-of-way line.

LOT WIDTH: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the road frontage at the minimum required setback line.

LOT COVERAGE: The portion of a lot that is covered by buildings measured as the ratio of the building footprint area to the total lot area.

MARINA: A business whose purpose is the sale, servicing, launching, or rental of boats and/or the sale or rental of moorings or docking berths. A marina may also include services ancillary to the marina operation such as retail, repair, food, laundry facilities, etc.

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes for residential use. Mobile home park does not mean land or premises used solely for storage or display of mobile homes. See also Campground.

MOTOR VEHICLE SALES: The use of any building, land area, or other premises for the display and sale of new or used automobiles generally but may include light trucks or vans, trailers, or recreation vehicles and including any vehicle preparation or repair work conducted as an accessory use. Also included is the sale of modular or mobile homes.

PARCEL: A contiguous lot or tract of land owned and recorded as the property of the same person(s) or controlled by a single entity.

PERSONAL OR PROFESSIONAL SERVICE: Establishment primarily engaged in providing assistance or providing services involving the care of a person or of a person's goods or apparel, such as salons and barbershops, laundromats and dry cleaners, linen supply, shoe repair, funeral services, health clubs, clothing rental, lawyer's office, accountant's office, engineer's office, kennels, veterinary offices, automobile repair, and other professional services and offices. Also includes congregate care facility, daycare center, and healthcare office or facility.

PLACE OF WORSHIP: A special purpose building that is architecturally designed and particularly adapted for the primary use of conducting, on a regular basis, formal religious services by a religious congregation.

PUBLIC OR SEMI PUBLIC FACILITIES: A building or other facility owned, leased, held, used, and/or controlled exclusively for public or semi-public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities include, but are not limited to municipal buildings and garages, water and wastewater facilities, and educational facilities. This definition also includes uses in Title 24 V.S.A. § 4413(a).

PRINCIPAL USE/STRUCTURE: See Structure/Use, Principal.

RECREATIONAL FACILITIES: An area of land or enclosed structure designed and equipped for the conduct of sports and leisure time activities as a commercial or public establishment. Includes golf course, golf driving range, trap, skeet, and archery range, swimming pool, skating rink, tennis court, riding stable, park, beach, recreation stadium, skiing, indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

RESIDENTIAL MARINE ASSOCIATION: Any commonly held shoreline property which is a common element of or an appurtenance to a residential development on the same or adjacent property that provides access to the shoreline for more than 2 residences.

RESTAURANT: Establishment where food and beverage are prepared and served in a form ready for consumption, which may be consumed on or off-site.

RETAIL SALES: Establishments engaged in selling goods or merchandise to the general public and rendering services incidental to the sale of such goods.

SETBACK (YARD AND ROAD): The distance between any land development and any lot line.

SETBACK (LAKE, STREAM OR WETLAND): The distance between any land development and the top of the mean water level of Lake Champlain (95.5'), or top of bank of any stream, or the edge of a wetland.

SOLAR ARRAY: A system which uses one or more solar panels to convert sunlight into electricity. It consists of multiple components, including photovoltaic modules, mechanical and electrical connections and mountings and means of regulating and/or modifying the electrical output. Solar arrays are typically either freestanding or mounted on an existing structure.

STORAGE FACILITIES: A structure containing self-service separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

STRUCTURAL ALTERATION: Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

STRUCTURE: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Structures include but are not limited to buildings, signs, fences, carports, porches, patios, swimming pools, freestanding solar arrays, freestanding towers, and lean-tos. Specifically, not included are sidewalks, driveways, underground utilities, and softscape landscaping such as trees, plants, groundcover, and mulching.

STRUCTURE/USE, ACCESSORY: An incidental or subordinate structure and/or use that is secondary or ancillary to the primary use of the same lot. Accessory structures include garages, sheds, barns, pump houses, and other out buildings, antennae, towers, swimming pools, and other structures

STRUCTURE/USE, PRINCIPAL: A use and/or structure directly involved with the primary purpose of ownership on a particular lot.

STRUCTURE/USE, TEMPORARY: A use and/or structure established for a limited duration with the intent to discontinue that use upon the expiration of a specified time period.

TRAVEL TRAILER PARK/CAMP: See Campground.

WIND ENERGY GENERATION SYSTEM (SMALL OFF-GRID): A wind energy generation system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and that is not connected to the electric utility system grid and therefore not a net-metered system.

YACHT CLUB: A facility similar to a marina but operated on a non-profit basis for the benefit of members or associates. The land may be held or controlled by either an individual or a business entity. A yacht club may also include services ancillary to the yacht club such as retail, repair, food, laundry facilities, etc.

YOUTH CLUB OR CAMP: Parcel used wholly or partially for education or recreation exclusively for members or accommodating five or more children under the age of 18 for a period of or portion of two or more days.

WIRELESS TELECOMMUNICATIONS FACILITY: A tower or other support structure, including antennae, related equipment, and base structures, which will extend 20 or more feet vertically, and be used primarily for communication or broadcast purposes to transmit or receive, communicate on or broadcast signals.