

Alburgh Land Use Regulations

DRAFT – 1.9.18

These bylaws were prepared with assistance from
The Northwest Regional Planning Commission

Permits and Approvals Required by the Town of Alburgh			
Permit/Approval	Required for	Issued by	See
Zoning Permit	All land development as defined in Article 8 including the construction, additions to and expansion of structures, the subdivision of land and changes of use of the building or land unless specifically exempted from these regulations in Section 107. <i>To receive a permit, development must meet the requirements of both Article 3 “Regulations for Structures” and Article 4 “Regulations for Uses.”</i>	Zoning Administrator	Section 501 Pg. 18
Conditional Use Approval	All land uses classified as conditional uses in Table 4.1	Development Review Board	Section 403 Pg. 15
Access by Right-of-Way Approval	Development on or access to lots without frontage on a maintained public road or public waters.	Development Review Board	Section 604 Pg. 23
Variance Approval	Requests for a variance from these regulations.	Development Review Board	Section 304 Pg. 8
Certificate of Occupancy	Use of a dwelling or structure constructed after the effective date of these regulations, for which a zoning permit has been issued, if it will generate wastewater.	Zoning Administrator	Section 505 Pg. 21

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Article 1. Authority and Purpose

101 ENACTMENT

In accordance with the Vermont Planning and Development Act (24 V.S.A., Chapter 117 Section 4401), hereinafter referred to as the "Act," these zoning regulations are established for the Town of Alburgh, Vermont. These regulations are set forth in the following text and map and shall be known and cited as the "Town of Alburgh Land Use Development Regulations."

102 INTENT

These Zoning Regulations are intended to provide for orderly community growth in a manner that serves to implement the Town Plan; to further the purposes of the Act; and to promote the public health, safety, comfort, convenience, economy and general welfare of the Alburgh community.

103 APPLICATION OF REGULATIONS

The application of these Regulations is subject to §4411 and §4413 of the Act. No building or structure shall be erected, moved or extended and no land, building or structure, or part thereof, shall be occupied or subdivided or used unless in conformance with the regulations specified for the district in which it is located.

These regulations shall not repeal or impair any other land use controls, including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of these regulations shall be minimum requirements and shall take precedence over any concurrent and less restrictive controls.

104 AMENDMENTS

These regulations may be amended or repealed in accordance with the requirements and procedures established in the Act §4441 and §4442.

105 SEVERABILITY

The invalidity of any provision of these Regulations shall not invalidate any other part.

106 EFFECTIVE DATE

This regulation shall take effect in accordance with the voting and other procedures of the Act.

107 LIMITATIONS AND EXEMPTIONS

A. Public Facilities

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use (24 V.S.A. §4413a):

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

B. State Exemptions

The following uses and structures are specifically exempted from municipal land use and development regulations by state law. Therefore, no municipal zoning permit or approval under these regulations shall be required for:

- 1) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Utilities Commission under 30 V.S.A. § 248 including net-metered wind generation facilities and solar panels.
- 2) Accepted agricultural and silvicultural (forestry) practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.
 - a) For purposes of these Bylaws, “farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.
 - b) A person shall notify the Town of Alburgh of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

- 3) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. However, facilities that may support such activities, including firing ranges, rod and gun clubs, and fish and game clubs, are subject to these regulations.
- 4) No permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.
- 5) The regulation of a telecommunications facilities, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Utilities Commission

C. Local Exemptions

A zoning permit shall not be required for the following:

- 1) Signs
- 2) Landscaping
- 3) Retaining walls for the purpose of shoreline stabilization along Lake Champlain (i.e. seawalls). It should be noted that this type of land development may need a permit per the Alburgh Flood Hazard Protection Ordinance and may also require a Shoreland Permit from the Vermont Agency of Natural Resources.
- 4) Retaining walls that meet the required setbacks.
- 5) Temporary structures that meet the required setbacks and do not exceed height limitations.
- 6) Outbuildings that are no more than 120 square feet. These structures may be within the setback area, provided that they are at least 5 feet from any property (boundary) line.
- 7) Interior renovations that do not change the use of a structure.
- 8) Normal maintenance and repair of a structure that does not increase the size of the structure.
- 9) Fences.

Article 2. Zoning Districts

201 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP

The Town of Alburgh is divided into the following zoning districts:

A. Village District

Purpose: This district encompasses Alburgh Village and is intended to provide for higher-density residential, commercial, public, and other compatible uses to serve the needs of the residents. Development in this district should be pedestrian-friendly, and should complement the character of the village, including its historic settlement pattern, scenic character and sense of community.

B. Rural District

Purpose: This district encompasses the area of town beyond Alburgh Village. The purpose of this district is to promote the unique character of Alburgh as a rural (peninsula) community. Density is intended to be at a lower density than within the village.

C. Industrial District

Purpose: This district encompasses the area of Alburgh designated for industrial development. This area is intended to support the economic development of Alburgh and provide opportunity to create local employment opportunities. Development in this district should be compatible with industrial uses and consistent with the Industrial Park covenant.

202 OFFICIAL MAP AND ZONING DISTRICT BOUNDARIES

- A.** The Official Zoning Map for the Town of Alburgh shall be located in the Office of the Town Clerk and shall be identified by the signature of the Selectboard, attested by the Town Clerk. The Official Zoning Map is hereby adopted by reference and declared to be part of these regulations.

No changes of any nature shall be made on the Official Zoning Map except in conformance with the formal amendment procedures and requirements set forth in the Act, Sections 4441 and 4442.

- B.** Boundaries indicated as approximately following roads, streams, transportation and utility rights-of-way, shoreline, parcel boundaries, or municipal boundaries shall be construed to follow such features.
- C.** When the Zoning Administrator cannot definitively determine the location of the district boundary by the scale and dimensions stated on the Zoning Map, he or she shall refer the matter to the Development Review Board, which shall interpret the location of the district boundary with reference to the scale of the map and the purpose set forth in all relevant provisions of this bylaw.

Article 3. Regulations for Structures

301 APPLICABILITY

No building or structure shall be erected, moved or extended in Alburgh except in conformance with the dimensional standards for the district in which it is located. All structures whether attached to the principal structures or not, and whether open or enclosed, including porches, decks, carports, balconies or platforms above normal grade level, shall not project into any setback nor exceed the maximum height.

302 DIMENSIONAL STANDARDS

Table 3.1 states the dimensional standards required in each zoning district.

	Village District	Rural District	Industrial District
Minimum lot size¹:	0.25 acre (21,780 square feet)	1 acre (43,560 square feet)	1 acre (43,560 square feet)
Minimum frontage:	60 feet	200 feet	n/a
Minimum lake frontage (for lots adjacent to Lake Champlain)	60 feet	100 feet	n/a
Minimum lot depth:	100 feet	200 feet	n/a
Minimum front yard setback²:	60 feet from centerline of right-of-way	75 feet from centerline of right-of-way	n/a
Minimum side yard setback:	15 feet from property line	15 feet from property line	n/a
Minimum rear yard setback:	20 feet from property line	30 feet from property line	n/a
Minimum lake setback:	20 feet from 98 feet above sea level	30 feet from 98 feet above sea level	n/a
Maximum Height³:	35 feet	35 feet	35 feet
1	Multifamily housing requires an additional 0.25 acres/unit for each unit beyond 2 (e.g. A four unit apartment in the village requires 1 acre).		
2	Any yard adjoining a street shall be considered a front yard for the purposes of these regulations. Therefore, a corner lot has two front yards.		
3	The Development Review Board may permit structures taller than thirty-five (35) feet as a conditional use provided that the structure does not constitute a hazard, or a nuisance.		

303 VACANT STRUCTURES, DEMOLITION, AND DESTROYED STRUCTURES

- A. Vacant Buildings and Structures.** Vacant buildings and structures are under the jurisdiction of the Town of Alburgh Ordinance to Regulate Nuisance Properties.
- B. Demolition** of structures is the intentional removal or dismantling of a structure either for the purpose of replacement or returning to grade. Prior to any demolition, a zoning permit must be obtained from the Zoning Administrator.
- 1) Within one year after any structure has been demolished, all structural materials and debris shall be removed from the site, and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.
 - 2) A zoning permit must be obtained before any reconstruction following demolition, unless exempted from these regulations under Section 107. Any reconstruction of a non-conforming structure is reviewed under Section 602 these bylaws.
- C. Destroyed Structures.** Destroyed structures are those that have been lost through accident or act of nature (fires, floods, etc) and are treated differently than structures which have been demolished (intentional losses of structures).
- 1) If an application for reconstruction of a destroyed structure has not been submitted after one year, all structural materials and debris shall be legally removed from the site by the owner and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.
 - 2) Reconstruction of destroyed structures requires a zoning permit. Provided the application for reconstruction is submitted within a year from the date of loss and is substantially similar to the original, the zoning administrator shall approve the application. If the reconstruction of the structure is not substantially similar to the original, all applicable approvals will be required.

304 VARIANCES

- A.** An applicant may apply for a variance from the provisions of these regulations from the Development Review Board for any structure that is not primarily a renewable energy structure (24 VSA 4469(a)). The Board may grant a variance, and render a decision in favor of the appellant, only if **all** the five (5) facts listed below are found, and the findings are specified in its written decision.
- 1) 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 these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

- 2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformance with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- 3) Unnecessary hardship has not been created by the appellant.
- 4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- 5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that the relief requested meets all requirements listed in the Act [§4469(b)] and are specified in its decision.

Article 4. Regulations for Uses

401 APPLICABILITY

No land, building, or structure in Alburgh shall be used except in conformance with these regulations.

402 USE REGULATIONS

A. Table 4.1 lists uses which are permitted (P), conditionally permitted (C), or not allowed (X). Specific standards applicable to each use are described below.

Table 4.1 Regulations by Zoning District			
	Village	Rural	Industrial
Uses and Structures			
1. Accessory Dwellings	P	P	P
2. Accessory Structure/Use	P	P	P
3a. New or Expansion of Existing Campgrounds	C	C	X
3b. Alteration of Existing Campgrounds	C	C	X
3c. New or Expansion of Year-round Mobile Home Park	C	C	X
3d. Alteration of Year-round Mobile Home Parks	C	C	X
3e. New or Expansion of Seasonal Mobile Home Park	C	C	X
3f. Alteration of Seasonal Mobile Home Park	C	C	X
4. Commercial	C	C	C
5. Home Occupations	P	P	P
6. Industrial	C	C	C
7. Mixed Use Development	C	C	C
8. Public Facilities	P	P	P
9. Residential Care Homes	P	P	X
10. Residential, Single ¹ and Two Family	P	P	X
11. Residential, Multi-Family	C	C	X
12. Telecommunication Facilities	C	C	C
13. Wind Energy Conversion Systems	C	C	C
Subdivision			
14. Minor Subdivisions	P	P	P
15. Major Subdivisions	C	C	C
¹ In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall			

be considered by right to constitute a permitted single family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article 10.

1) Accessory Dwellings

An accessory dwelling unit that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use in all districts. An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- a) The property has sufficient wastewater capacity.
- b) The unit does not exceed 600 square feet or 30 percent of the total habitable floor area of the single-family dwelling, whichever is larger (for example, the owner of a home that is 1500 square feet may build an accessory unit that is up to 600 square feet and the owner of a home that is 2200 square feet may build an accessory unit that is up to 660 square feet).
- c) The unit is located within the required setbacks and does not exceed the maximum height for the zoning district

2) Accessory Structure/Use

An accessory structure is a detached structure, the use of which is subordinate to the principal use or structure located on the same lot. Examples of accessory structures include, but are not limited to, detached garage, tool shed, or greenhouse. Accessory structures must meet the required setbacks and shall not exceed the maximum height for the zoning district.

3) Campgrounds, Year-round Mobile Home Parks, and Seasonal Mobile Home Parks

The following regulations shall apply to all campgrounds, year-round mobile home parks, seasonal mobile home parks, and other businesses providing accommodations for three or more tents, travel trailers, mobile homes, and/or camping vehicles. A campground, year-round mobile home park, or seasonal mobile home park shall be considered expanded if additional units or sites are proposed beyond 100 ft. from the perimeter of the park as it exists on the effective date of these regulations. Expansions shall be regulated under 3a, 3c, and 3e below and all other alterations are regulated under 3b, 3d or 3f.

3a. New or Expanded Campground. The creation of a new campground, or the expansion of an existing campground, shall be subject to the regulations below:

- a) Conditional use approval is required.
- b) Campgrounds shall provide for lavatory, shower, and toilet facilities and individual camping vehicle or tent spaces. All campgrounds shall comply with State regulations.

- c) The required setback for the zoning district shall apply to the periphery of the campground. No structure, tent, travel trailer, or camping vehicle shall be located in the setback areas.
- d) Vegetation shall be required in the setback area in order to screen the area and provide privacy for adjoining property owners.

3b. Alteration of Existing Campground. The alteration of an existing campground shall be subject to the following regulations:

- a) The required setback for the zoning district shall apply to the periphery of the campground. No structure, tent, travel trailer, or camping vehicle shall be located in the required setback area.
- b) A zoning permit shall be required for the construction or expansion of any structure operated as part of the campground including but not limited to restrooms, cabins, recreational facilities, pavilions, outbuildings, etc.

3c. New or Expansion of Year-round Mobile Home Park. The creation of a new year-round mobile home park, or the expansion of a year-round mobile home park, shall be subject to the regulations below:

- a) Conditional use approval is required.
- b) The required setback for the zoning district shall apply to the periphery of the park. No structures, including mobile homes, shall be located in the setback areas.
- c) Vegetation shall be required in the setback area in order to screen the area and provide privacy for adjoining property owners.

3d. Alteration of Year-round Mobile Home Park. The alteration of an existing year-round mobile home park shall be subject to the following regulations:

- a) The required setback for the zoning district shall apply to the periphery of the year-round mobile home park. No structure shall be located in the required setback area.
- b) A zoning permit shall be required for the construction or expansion of any structure operated as part of the year-round mobile home park including but not limited to restrooms, cabins, recreational facilities, pavilions, outbuildings, etc.
- c) No zoning permit shall be required for expansions, alterations, or replacement of existing mobile homes within the year-round mobile home park.

3e. New or Expansion of Seasonal Mobile Home Park. The creation of a new seasonal mobile home park, or the expansion of an existing seasonal mobile home park, shall be subject to the regulations below:

- a) Conditional use approval is required.
- b) The required setback for the zoning district shall apply to the periphery of the seasonal mobile home park. No structure shall be located in the setback areas.

- c) Vegetation shall be required in the setback area in order to screen the area and provide privacy for adjoining property owners.

3f. Alteration of Seasonal Mobile Home Park. The alteration of an existing seasonal mobile home park shall be subject to the following regulations:

- a) The required setback for the zoning district shall apply to the periphery of the seasonal mobile home park. No structure shall be located in the required setback area.
- b) A zoning permit shall be required for the construction or expansion of any structure operated as part of the seasonal mobile home park including but not limited to restrooms, cabins, recreational facilities, pavilions, outbuildings, etc.
- c) No zoning permit shall be required for expansions, alterations, or replacement of existing mobile homes within the seasonal mobile home park.

4) Commercial

A commercial use shall include, but is not limited to, stores, restaurants, automobile sales or service, recreational facilities, business offices, and any other place of business providing facilities, goods or services in exchange for payment. Commercial uses shall require Conditional Use approval in accordance with Section 403.

5) Home Occupation

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling as a business that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

- a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures;
- b) The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted;
- c) No traffic shall be generated which would be uncharacteristic of the neighborhood;
- d) Exterior displays or signs other than those normally permitted in the district and exterior storage of materials shall be prohibited.
- e) Adequate off-street parking shall be required.

A home-based business that exceeds this definition shall be regulated as a mixed-use.

6) Industrial

An industrial use shall include, but not be limited to, manufacturing, warehousing, and associated activities.

7) Mixed Use Development

More than one use may be permitted within a single building or in multiple buildings on a single lot subject to conditional use review in accordance with Section 403, and the following provisions:

- a) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
- b) The structures meet all applicable standards for the district in which they are located, as listed in Table 3.1.

8) Public Facilities

This type of use includes all uses included in Section 107(A) – Public Facilities including, but not limited to, schools, churches, and community centers.

9) Residential Care Homes or Group Homes

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use review.

10) Residential, Single and Two Family

Residential dwellings that contain one or two units, including a mobile home or seasonal camp, are a permitted use. Any vehicle used for living quarters and not meeting the definition of temporary structure shall be regulated as a residential dwelling. Residential dwellings must include off-street parking for at least 2 cars for each unit.

11) Residential, Multi-Family

A multi-family residential development contains three or more dwelling units. This includes congregate housing, senior housing, apartments, and condominiums. At least two off-street parking spaces per unit must be provided, unless waived by the Development Review Board.

12) Telecommunication Facility

New or expanded telecommunications facilities, including but not limited to towers and accessory structures are subject to conditional use review. In conformance with 24 V.S.A. § 4412(9), the Development Review Board may permit new or expanded telecommunications facilities if the board finds that the facility will impose not more than a de minimus impact on the conditional use standards in Section 403 and the criteria below:

- a) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- b) The Facility will not have an undue adverse aesthetic impact.
- c) The Facility will not generate undue noise.

Figure 4.1 – De Minimus Impact

The legal term “de minimus” means “small” and of “minimum importance.”

13) Wind Energy Conversion System

All wind driven conversion or power generating facilities, windmills, and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, that **will not** be connected to any public utility power grid shall require a conditional use permit in accordance with this Section.

- a) **Application Requirements.** In addition to the conditional use application requirements the application shall include a plot plan showing proposed location of all conversion system poles or towers, guy lines where required, guy line anchor bases and their distance from all property lines. The safety of the design shall be certified by a professional engineer or by an authorized factory representative.
- b) **Review Standards.** In addition to the conditional use standards in Section 403, wind energy conversion systems shall conform to the following specific standards:
 - i. **Setback-** No part of the system shall be located within or above any required front, side, or rear setback area of the district in which it is located. The wind energy conversion system shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines. The setback from the property lines shall be waived if the abutters of those affected properties so grant their permission in writing.
 - ii. **Height-** The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.
 - iii. **Aesthetics-** The system shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
 - iv. **Access-** To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.

- v. *Noise*- The windmill shall not exceed 60 dBA, as measured at the lot line.

14) Minor Subdivisions

A minor subdivision is the division of any parcel of land into two parcels. All newly created parcels must meet the minimum lot size and dimensional requirements for the district in which they are located.

15) Major Subdivisions

A major subdivision is the division of any parcel of land into three or more parcels. In addition to the conditional use standards in Section 403, major subdivisions shall conform to the following specific standards:

- a) All newly created parcels must meet the minimum lot sizes for the district in which they are located unless waived in accordance with item “B” below.
 - b) As enabled by 24 VSA 4414 (8), the Development Review Board may waive some or all of the dimensional requirements for lots within a major residential subdivision in order to achieve clustered development. In no case, shall the overall density of the subdivision be greater than what would otherwise be allowed in the zoning district.
 - c) Private roads providing access to a subdivision shall be designed to accommodate emergency and service vehicles (See Section 404). A letter from the Fire Chief may be required.
- B.** Uses not specifically listed in Table 4.1 may be approved by the Development Review Board as a conditional use. In approving the conditional use application, the Development Review Board must find that the proposed use is of the same general character as those uses permitted, or allowed as conditional use, in the area in which the use is proposed. The burden of proof to show that the proposed use is of the same general character shall be on the applicant.

403 CONDITIONAL USE REVIEW STANDARDS

A. Applicability and Standards. Conditional uses may be approved by the Development Review Board, as provided for in 24 VSA §4414(3), if the proposed conditional use shall not result in an undue adverse impact on any of the following:

- 1) *The capacity of existing or planned community facilities.* The Board shall consider demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (such as school capacity, emergency services, recreation fields, etc.). When considering an application, the Board shall require that the proposed development be accessible using the emergency vehicles currently owned by the Town.
- 2) *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies*

and standards of the municipal plan. The Board shall consider the design, location, scale, and intensity of the proposed development and/or use, relative to the surrounding neighborhood. The existence of one conditional use in a district will not necessarily be interpreted as justification for another similar conditional use to be located there. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal's compatibility with the purpose of the zoning district, the municipal plan, and the testimony of the interested parties.

- 3) *Traffic on roads and highways in the vicinity.* The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists, or unacceptable levels of service for local roads, highways, bridges and intersections (i.e., below service level "C").
- 4) *Bylaws or ordinances now in effect.* Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Alburgh Town Plan and compliance with conditions of prior permits or approvals.
- 5) *Utilization of renewable energy resources.* The Board will consider whether the proposed development will interfere with the sustainable use of renewable resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.

B. Conditions of Approval. In permitting a conditional use, the Development Review Board may impose conditions deemed necessary to meet the five conditional use criteria outlined above or any other provision of this regulation. These conditions may include, but are not limited to, the following:

- 1) Increased or decreased lot size or yard dimensions.
- 2) Limitations on the lot coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features.
- 3) Limitations on the location and number of vehicular access points to the property.
- 4) Increased or decreased street width requirements or other modifications to street design to ensure vehicular and pedestrian safety and emergency vehicle access.
- 5) Limitations on the hours of operation or levels of daily truck traffic permissible.
- 6) Requiring measures to minimize the adverse effects of land alterations on soil

erosion, water quality, and scenic beauty as may be recommended by the county forester, Natural Resource Conservation Service, district highway engineer, and other experts.

- 7) Requirements for suitable landscaping where necessary to reduce noise and glare, to provide privacy to adjacent landowners, and to maintain the property in keeping with the surrounding area.
- 8) Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services.

404 STANDARDS FOR DRIVEWAYS AND DEVELOPMENT ACCESS ROADS

- A. Curb Cuts.** Access onto town owned public highways is subject to the approval of the Alburgh Selectboard, and for state highways, the approval of the Vermont Agency of Transportation.
- B. Driveways.** Driveways exceeding 250 feet in length must include, at minimum, one pull-off area and must terminate in a suitable turn around that can accommodate emergency vehicles. Driveways are allowed in setback areas.
- C. Development Access Roads (Private Roads).** The construction of development access roads, including specifications relating to crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation’s Standard A-76. If the road is serving more than 2 lots, the development review board shall require a right of way of 3 rods (49.5 feet) in width and may require a road base width of 24 feet. All dead end roads shall be constructed with a suitable turn around at the end, such as a cul-de-sac “T” or “Y”, which can accommodate emergency vehicles.

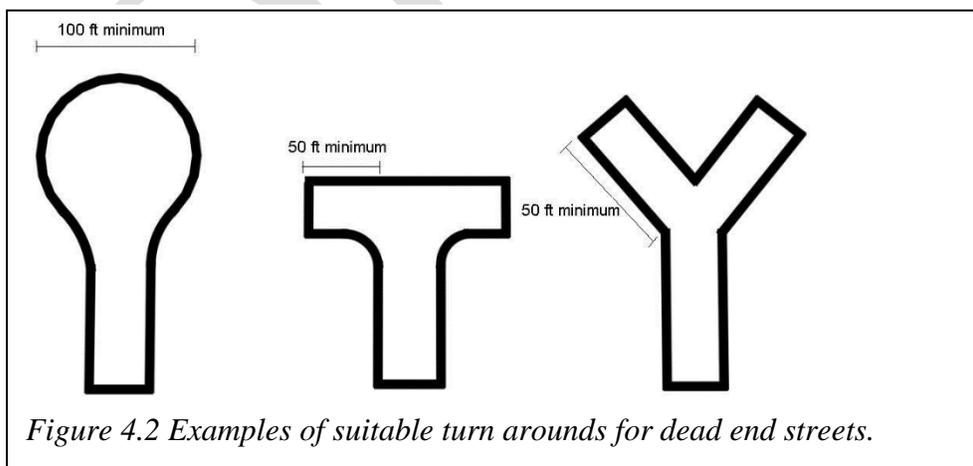


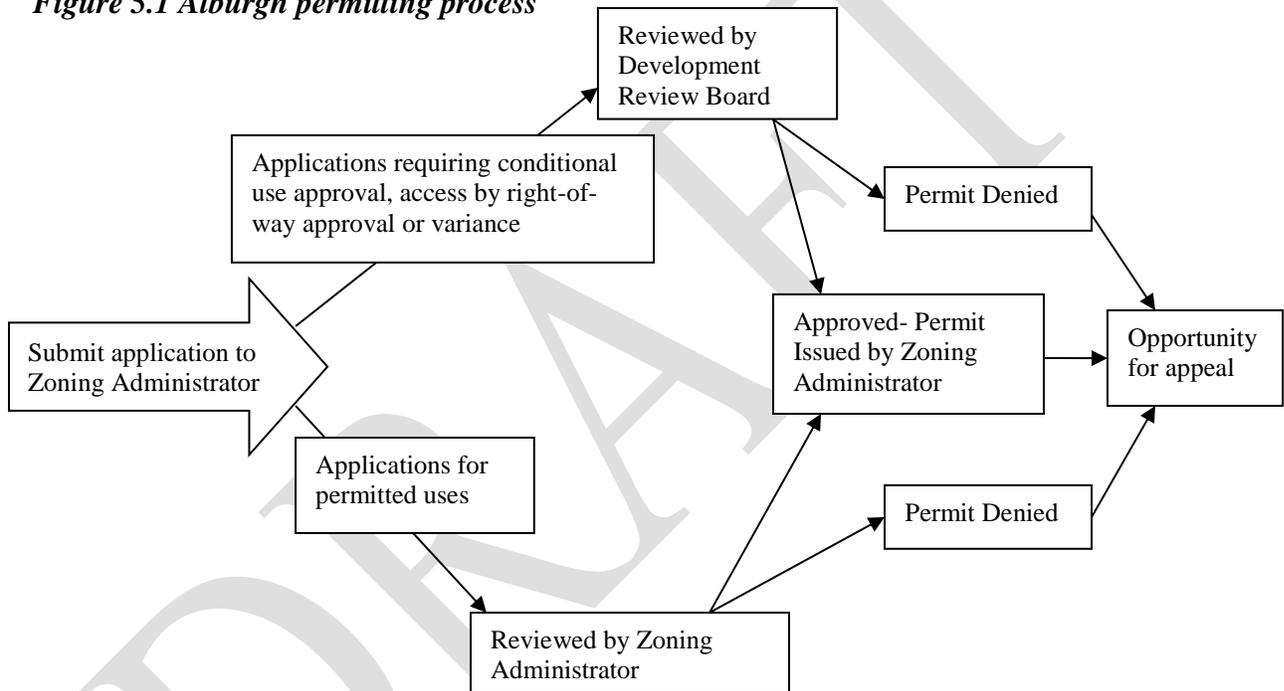
Figure 4.2 Examples of suitable turn arounds for dead end streets.

Article 5. Permit Review Procedures

501 PERMITTING PROCESS

- A. No land development, as defined in Article 8, shall commence in Alburgh without a zoning permit issued by the Zoning Administrator unless specifically exempted in these regulations. To receive a zoning permit, land development shall meet the standards and requirements described in Articles 3 “Regulations for Structures” and Article 4 “Regulations for Uses.” Where conditional use approval, access by right-of-way approval, or a variance is required, such approval must be obtained from the Development Review Board prior to issuance of a zoning permit.

Figure 5.1 Alburgh permitting process



B. Application Requirements

Applications for zoning permits shall be made to the Zoning Administrator on forms provided for that purpose and must contain all applicable application materials listed in Table 5.1. The applicant shall pay the required fee, as set by the Selectboard, and provide all information requested on the form in addition to any other information that the Zoning Administrator may reasonably require to determine compliance with these regulations.

Prior to the issuance of any zoning permits, the Zoning Administrator shall first determine that the subject of the application is in conformance with these regulations. No such permit shall be considered by the Zoning Administrator unless an application, fee, plot plan and any other approvals of the Development Review Board required by this regulation have been properly obtained and are submitted in conjunction with the application.

TABLE 5.1 APPLICATION REQUIREMENTS:

Requirements for *all* land development applications:

- * Name and address of the owner(s) of record.
- * A list of names of most recent mailing addresses of all abutting property owners, without regard to public rights of way (i.e., properties across the street are considered to be abutting).
- * One complete copy of a plot plan, drawn to scale, with north arrow and date of preparation. *(If requested by the Development Review Board, site plans shall be prepared by a licensed engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*

Each plot plan shall show the following information in sufficient detail to determine whether the proposal is in conformance with these Regulations:

- General site location in relation to public roads and nearest intersection.
- Dimensions of the lot and lot acreage, including legal property boundaries.
- Zoning district boundaries.
- Location, footprint, and height of existing and proposed structures, and an indication of the distance between structures, boundaries, streets, boundary lines and waterways. (Where locations of, and relationship between property lines, roads, buildings, and other required information is in doubt, a land survey may be required.)
- Locations and dimensions of any existing and proposed driveways, parking areas, easements, rights-of-way, sidewalks, water sources, water lines, septic systems and/or sewer lines, and other utilities.
- Location of major site features, including surface waters, wetlands, and floodplains, rock outcroppings, and stands of trees.
- Any other information that may be needed to determine compliance with these regulations.

Additional materials which may be required for Conditional Use applications:

- The location and type of all vegetation and natural features on the site.
- Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights of way.
- Location, height, and lumens of outdoor lighting.
- Topography indicating contours at intervals of not more than 50 feet.
- Soil types.
- Existing and proposed landscaping and screening.
- The location of all proposed site grading and excavation.
- Construction sequence and time schedule for completion of development

C. Action by the Zoning Administrator

The Zoning Administrator shall within 30 days of the submission of this application date and approval, either issue or deny the zoning permit or refer the application to the Development Review Board. If the zoning permit is denied or referred, the Administrator shall so notify the applicant in writing, stating the reasons for the action taken. If the zoning permit is approved, within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall post a copy of the permit in the Town Clerk’s Office until the expiration of the appeal period.

In the issuance of zoning permits, the Zoning Administrator shall comply with all provisions of §4449 of the Act.

D. Posting Requirements

When the Zoning Administrator issues a zoning permit, the applicant shall post a permit notice, on a form provided by the Town of Alburgh, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal has passed. 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.

E. Effect of Approval

No zoning permit issued pursuant to §4449 of the Act shall take effect until the 15 day time period for appeals as per §4465 of the Act has passed, or in the event that the notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal. All activities authorized by a zoning permit shall be completed within one year of its date of issue, or the zoning permit shall become null and void and application to complete any activities shall be required. If construction has started but is not complete within one year, the Zoning Administrator may approve a one year extension.

F. Recording Requirements

Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.

502 PUBLIC HEARING PROCESS AND NOTICE REQUIREMENTS

In accordance with 24 VSA § 4464, a warned public hearing shall be required for conditional use review, appeals of decisions of the Zoning Administrator, and variances. Public notice of these hearings shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- A. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- B. Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;

- C. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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; and
- D. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality must be made.

503 APPEALS

- A. An interested person may appeal any decision or act taken by the Zoning Administrator by filing notice of appeal with the secretary of the Development Review Board, or the Town Clerk if no such secretary has been selected, within fifteen days of the date of such decision or act.
- B. The Development Review Board shall set a date and place for a public hearing upon appeal which shall be within 60 days of the filing of the notice of appeal according to §4466 of the Act.
- C. On appeal for a variance from the provisions of zoning regulation the Development Review Board may grant such a variance only in strict accordance with §4469 of the Act.
- D. The Development Review Board shall render its decision within 45 days of the close of the public hearing and send to the applicant, by certified mail, and to all parties at the hearing, a copy of the decision. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk. If the board does not render its decision within 45 days of the close of the public hearing, the Board shall be deemed to have rendered its decision in favor of the applicant..
- E. An interested party [as defined by §4465] may appeal a decision of the Board within thirty days of such decision to the Environmental Court, as outlined in §4471 of the Act. The Zoning Administrator shall provide a list of the interested parties to pertinent authorities.

504 ENFORCEMENT

Any violation of these regulations after the effective date thereof shall be enforced as provided in §4451 and 4452 of the Act.

505 CERTIFICATE OF OCCUPANCY

Any dwelling or structure or part thereof which will generate wastewater and has 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. The purpose

of the Certificate of Occupancy is to ensure that the permitted land development has been completed according to permit conditions and these regulations.

- A.** Within 30 days of receipt of the complete application for a Certificate of Occupancy, the Zoning Administrator will inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all permit conditions. A Certificate of Occupancy shall be issued only if:
- 1) A Wastewater and Potable Water Supply permit or letter of exemption has been issued and filed in the town land records, see Section 705.
 - 2) A road access permit has been issued by the Road Commissioner, if required.
 - 3) An e-911 number has been issued by the E-911 Coordinator.
 - 4) If the applicant has determined that a certificate as explained in 30 V.S.A. 51 (residential building energy standards) or 53 (commercial building energy standards) is required for any land development, such certificate must be recorded in the Town Clerk's Office as a condition precedent to the issuance of a Certificate of Occupancy.
 - 5) If an applicant has applied for a Certificate of Occupancy for the installation of a new mobile home or new manufactured home, the applicant shall provide the Zoning Administrator with a copy of a completed HUD Form 309 (as required in 24 C.F.R. 3285 and 3286) before the Certificate of Occupancy may be issued.
- B.** If the Zoning Administrator fails to either grant or deny the Certificate of Occupancy within 30 days of the submission of a complete application, the certificate shall be deemed issued on the 31th day.

Article 6. Pre-Existing Development Not in Conformance with these Regulations

601 EXISTING SMALL LOTS

Any small lot in existence of the effective date of any zoning regulation may be developed for the purposes permitted in the district in which it is located even the lot does not conform to the minimum size requirement. Frontage requirements for these existing small lots shall be waived by the Development Review Board in situations where the minimum frontage required cannot be met due to lot size constraints. If necessary, minimum setback standards may be reduced for existing small lots upon the approval of a conditional use application by the Development Review Board.

602 NONCONFORMING STRUCTURES

A nonconforming structure may be enlarged or expanded upon approval of the Development Review Board, provided that the intended use of the structure is permissible and that the expansion does not increase the existing degree of non-compliance. In the event that a nonconforming structure is destroyed by fire, explosion, act of God, by vandalism or public enemy, or if demolished by the owner for reconstruction, the nonconformity may be reconstructed within the original building footprint, or in another location more in conformance with the bylaws. A report on reconstruction progress must be filed with the zoning administrator on an annual basis upon forms provided for that purpose until reconstruction of the original nonconformity is completed.

603 NONCONFORMING USES

Under Conditional Use Review, the Development Review Board may permit the expansion, extension or enlargement of a non-conforming use or the change to another non-conforming use, only if it:

- A. Does not increase the degree of non-conformance.
- B. Complies with the conditional use criteria of Section 403.

604 LOTS WITHOUT FRONTAGE

Land development may be permitted on lots which do not have frontage either on a public road or public waters, provided that access through a permanent easement or right-of-way has been approved by the Development Review Board. In accordance with 24 VSA §4412(3), any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width. If serving more than two lots or uses, the development review board may require a right of way up to 3 rods (49.5 feet) in width with a road base width of 24 feet.

Article 7. Administration

701 ZONING ADMINISTRATOR

- A.** The Zoning Administrator shall be appointed to administer the zoning regulations pursuant to §4442 of the Act. Said officer shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. An acting Zoning Administrator may be appointed pursuant to §4448 of the Act.

702 PLANNING COMMISSION

- A.** The Planning Commission shall consist of not less than three (3) nor more than nine (9) appointed by the Legislative Body for specified terms in accordance with the Act [§4460 9(b) and (c)]. Vacancies shall be filled by the Legislative Body for unexpired terms and upon the expiration of terms. Any member of the Planning Commission may be removed at any time by unanimous vote of the Legislative Body. The responsibilities of the Planning Commission include:
- 1) Prepare amendments to these regulations and other regulations as permitted by the Act;
 - 2) Prepare and update the municipal plan every 5 years, and prepare amendments to the plan as necessary;
 - 3) Undertake capacity studies and make recommendations on matters of land development, village renewal, transportation, economic and social development, village beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, and natural resource protection.

703 DEVELOPMENT REVIEW BOARD

- A.** The Development Review Board shall consist of five (5) members appointed by the Legislative Body for specified terms in accordance with the Act [§4460 9b and (c)]. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Legislative Body upon written charges and after a public hearing.
- B.** The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Board shall have all powers and duties as set forth in the Act to Administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- 1) Conditional use approval (Section 403);
- 2) Applications for rights-of-way or easements for development lacking frontage (Section 604);
- 3) Approval of the expansion or extension of a nonconforming use or structure (Sections 602 and 603);
- 4) Adjudication of zoning district boundary disputes;
- 5) Appeals from any decision, act or failure to act by the Zoning Administrator;
- 6) Variance requests (Section 304)

704 SPECIAL FLOOD HAZARD AREA

Any application for land development within the Special Flood Hazard Area, as designated on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), and the National Flood Insurance Program (NFIP) as provide by the Vermont Agency of Natural Resources, shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] . Such land development must comply with the Town of Alburgh Flood Hazard Area Regulations.

705 WASTEWATER

- A. 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 contact the Agency of Natural Resources District Permit Specialist to determine if such a permit it required.
- 1) If, according to the 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 Zoning Administrator.
 - 2) Where a Wastewater and Potable Water Supply Permit is required, it shall be unlawful to use or occupy or permit the use or occupancy of any premises requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Zoning Administrator under Section 505.

706 EQUAL TREATMENT OF HOUSING

- A.** No zoning regulation shall have the effect of excluding mobile homes, modular housing, manufactured housing or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

- B.** Mobile and modular homes shall be treated the same as conventional homes except in a mobile home park.

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Article 8. Definitions

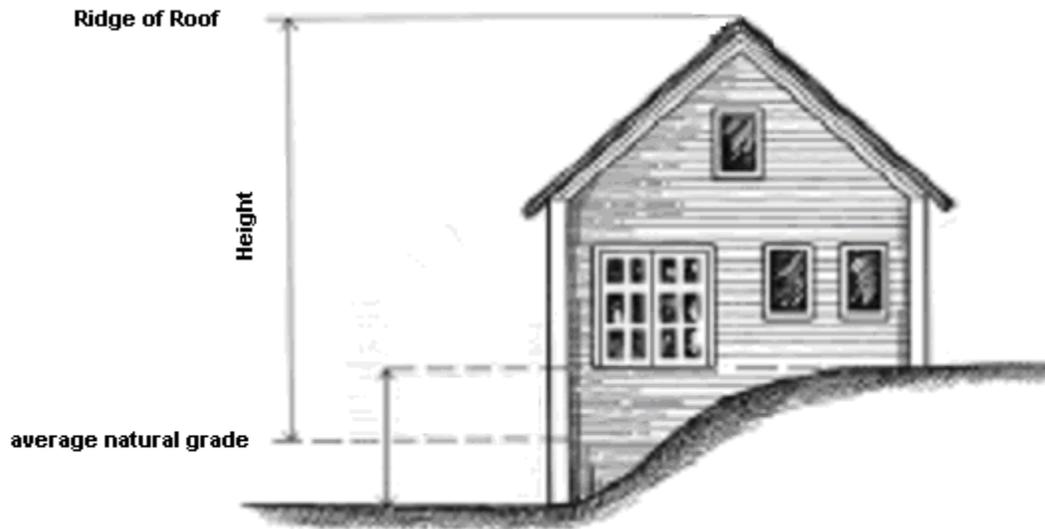
Act: Title 24 Vermont Statutes, Chapter 117, Vermont Municipal and Regional Planning and Development Act.

Building: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or equipment. Porches, whether enclosed or unenclosed shall be considered part of a building.

Child Care Home: A use where the owner or operator is licensed or registered by the State for child care and which serves six or fewer full-time children and four or fewer part-time children as defined in 33 V.S.A. 3511(7).

Front Yard: Yard between the front lot line and the front line of the building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the center line of the right-of-way to the front line of the building nearest the centerline of the right-of-way, and shall include any porches –but not steps.

Height: The height of a structure shall be measured from the average natural grade abutting the structure to the highest point of a structure with the exception of antennae, chimneys, and mechanical systems.



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

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

Lot area: Total area within the property lines excluding any part thereof lying within the limits of the public highway or proposed public highway.

Lot Coverage: That percentage of the lot area covered by impervious surface, such as all principal and accessory buildings, structures, parking areas, loading areas, or driveways.

Lot depth: Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

Lot Line: Property lines bounding a lot.

Lot Width: Width measured at right angles to its lot depth, at the required building front line.

Mobile Home Park: Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment. Year-round mobile home parks shall contain mobile home parks that may be occupied all year. Seasonal mobile home parks shall contain mobile homes that may only be occupied seasonally.

Non-conforming structure: A structure, or part of a structure that does not conform to the present regulations, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations. Structures that were improperly authorized by the Administrative Officer are considered nonconforming structures.

Non-conforming use: Use of land or structure which does not comply with all zoning regulations for the district in which it is located where such use conformed to all such applicable laws, ordinances and regulations prior to the enactment of these regulations.

Outbuilding: An outbuilding is a detached, accessory structure that is not used as a living space, such as a shed or garage.

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

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

Structure: An assembly of materials for occupancy or use, including a building, mobile home, wall, permanent swimming pool, wind turbine or fence.

Telecommunications facility: A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals

Temporary Structure: A structure will be considered temporary if it has no foundation or footings and is not in place more than 180 days. Temporary Structures are exempt and do not require a zoning permit if they meet the required setbacks and do not exceed the maximum height of the zoning district.

Yard: Space on a lot not occupied by a building or structure.

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