# Zoning Regulations

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# Table of Contents

**INTRODUCTION**
**1**

**1. OVERVIEW 1**

**1.1 Purpose 1**
**1.2 Application of Zoning Regulations 1**
**1.3 Legal Status 1**
**1.4 Amendment or Repeal of Sections 1**
**1.5 Severability 1**
**1.6 Conflicting Ordinances or Regulations 1**
**1.7 Definitions and Index 2**

**2. ZONING DISTRICT REGULATIONS - GENERAL 2**

**2.1 Establishment of Zoning Districts 2**
**2.2 Determination of Zoning District Boundaries 2**
**2.3 Zoning District Map 3**
**2.4 Uses and Exemptions for Districts - Generally 3**
**2.5 Land Capability 3**
**2.6 Administratively Created Lots 4**

**3. ZONING DISTRICT REGULATIONS - SPECIFIC - USE INDEX 4**

**3.1 Agricultural / Residential District (A/R) 7**
**3.2 High Density Residential District (HDR) 8**
**3.3 Residential / Commercial District (R/C) 10**
**3.4 Gateway Commercial District (G) 13**
**3.5 Village Commercial District (V/C) 15**
**3.6 Commercial District (C) 17**
**3.7 Industrial / Commercial District (I/C) 19**
**3.8 Mobile Home Park District (MHP) 21**

**4. REGULATIONS APPLYING TO ALL LOTS 24**

**4.1 Compliance with Public Works Specifications 24**
**4.2 Required Frontage on, or Access to, Roads or Public Waters 24**
**4.3 Approval for Interior Lots with No Frontage 24**
**4.4 Curb Cuts 24**
**4.5 Multiple Use of Lots 24**
**4.6 Nonconforming Lots 24**
**4.7 Nonconforming Structures 25**
**4.8 Setback Modifications 25**
**4.9 Nonconforming Uses 26**
**4.10 Noise 26**
**4.11 Exterior Lighting 27**
**29**

**5. PERMITS AND APPROVALS 29**

**5.1 Applicability 29**
**5.2 Application Process, Decisions and Appeals 29**
**5.3 Process after Permit is Issued 31**

5.4 Subdivision Review 32
5.5 Site Plan Review 32
5.6 Conditional Use Review 34
5.7 Signs 38
5.8 Boundary Adjustments 41
5.9 Accessory Dwellings 41
5.10 Requirements for Specific Structures 42
5.11 Home Occupations, Child Care Homes , Group Homes 42
5.12 Planned Unit Development (PUD) and Residential Planned Unit Development (PUD) 43

6. SPECIAL ZONING REGULATIONS 47

6.1 Parking and Loading 47
6.2 Driveway Requirements 51
6.3 Pedestrian and Bike Ways 51
6.4 Swimming Pools 51
6.5 Mobile Homes and Travel Trailers 51
6.6 Taller Structures (Height Exemption) 51
6.7 Shoreline Protection Overlay District 51
6.8 Flood Hazard Overlay District (FHOD) 53
6.9 Wetlands 68
6.10 Water Supply Source Protection Area 68
6.11 Steep Slopes 68
6.12 Wireless Telecommunications Facilities 68

7. DEFINITIONS 80

7.1 General 80
7.2 Specific 80

8. ADMINISTRATION, APPEALS AND ENFORCEMENT 90

8.1 Administrative Officer 90
8.2 Development Review Board (DRB) 90
8.3 Violations and Enforcement 93
8.4 Appeals and Variances 93
8.5 Recording Requirements 94
8.6 Fee Schedule 95
8.7 Availability of Documents 95
8.8 Amendments of Statutes Referenced Herein 95

Index 96
Appendix A1 98
Appendix A2 99
Appendix B 100
Appendix C 101

# INTRODUCTION

In accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117 (referred to herein as "the Act"), there are hereby established Zoning Regulations for the Town of Richmond which are set forth in the text and maps that constitute these regulations.

These regulations shall be known and cited as the
"Town of Richmond Zoning Regulations."

The regulations that follow *do not* intend to threaten or compromise any lawfully existing residence, structure or business; these lawfully existing uses and structures shall be grand-fathered and accepted at current locations and levels of activity, as provided in these Zoning Regulations.

Richmond's rural character will be protected by zoning regulations that support current patterns of use; and by small-scale, rather than large-scale, development.

# 1. OVERVIEW

## 1.1 Purpose

The purpose of these Zoning Regulations is to promote the health, safety and general welfare of the inhabitants of the Town of Richmond, Vermont and to enhance the value of property, to secure safety from fire and congestion, and to further the purposes of the Town Plan and the Act (§4302).

## 1.2 Application of Zoning Regulations

No "Land Development" (see definition, Section 7) shall commence without the issuance of a Zoning Permit, as provided in Section 5.1.

## 1.3 Legal Status

These Zoning Regulations shall become effective twenty-one (21) days after the date of adoption by the Richmond Selectboard, subject to §4442(d) of the Act. The zoning regulations heretofore in effect in the Town of Richmond shall be deemed repealed upon the Effective Date of these Zoning Regulations.

## 1.4 Amendment or Repeal of Sections

Any amendment, repeal of sections or revision of the other provisions of these Zoning Regulations shall be prepared in accordance with the Act as may be amended from time to time. Any request for an amendment to these Zoning Regulations, including the official Zoning District Map, shall be submitted in writing to the Planning Commission for consideration. A proposed amendment supported by a petition signed by not less than five percent of Richmond voters shall be corrected by the Commission only for technical deficiencies and warned for a public hearing. The Planning Commission shall prepare and approve a written report on all proposed amendments in accordance with the Act.

## 1.5 Severability

Invalidity of any section or provision of these Zoning Regulations shall not be held to invalidate any other section or provision of these Zoning Regulations.

## 1.6 Conflicting Ordinances or Regulations

In case of any inconsistency between a provision of these Zoning Regulations and a provision of any other applicable ordinance or regulation of the Town, the provision that was adopted or materially amended later

than the other shall control unless otherwise required by law. Under Section 6.8.3.a), the provisions of the Flood Hazard Overlay District take precedence when they impose a greater restriction than other regulations. If any provision of these Zoning Regulations is or becomes inconsistent with the Act, the Act shall control.

### 1.7 Definitions and Index

Many of the terms used in these Zoning Regulations are defined in Section 7and these definitions should be referred to for a correct interpretation of the regulations. Some of the more prominent terms are capitalized to draw attention to their having definitions, though many defined terms are not capitalized. Special definitions are in Section 6.8 and Section 6.12. The index in the final section of this document can also be used to find references to specific topics.

## 2. ZONING DISTRICT REGULATIONS - GENERAL

### 2.1 Establishment of Zoning Districts

The Town of Richmond is divided into the following Zoning Districts in accordance with the Official Zoning District Map:

**2.1.1** A/R - Agricultural / Residential District

**2.1.2** HDR - High Density Residential District

**2.1.3** R/C - Residential / Commercial District

**2.1.4** G - Gateway Commercial District

**2.1.5** V/C - Village Commercial District

**2.1.6** C - Commercial District

**2.1.7** I/C - Industrial / Commercial District

**2.1.8** MHP - Mobile Home Park District

### 2.2 Determination of Zoning District Boundaries

If the location of a Zoning District boundary is at issue, then the following rules shall apply:

**2.2.1 Centerlines** - A boundary indicated on the Zoning District Maps as appearing to follow a road, stream, or right of way shall be construed to follow the centerline of such road, stream, or right of way.

**2.2.2 Lot lines** - A boundary indicated on the Zoning District Maps as appearing to follow a lot line shall be construed as following such lot line.

**2.2.3 Shorelines** - A boundary indicated as appearing to follow a shoreline shall be construed as following the shoreline at the normal mean water level.

**2.2.4 Contour lines** - A boundary indicated as appearing to follow a contour line showing elevation shall be construed as following such contour line.

**2.2.5 Use of Scale** - In cases where a Zoning District boundary is not indicated as appearing to follow any of the above, the boundary shall be determined by using the scale of the Zoning District Maps.

**2.2.6 Divided Parcels** - When a lot is divided by a Zoning District boundary line, Land Development in each portion of the lot shall meet the requirements of the Zoning District in which the portion of the lot lies. If the Zoning District boundary passes through a lot and results in an area of land in a Zoning District which is smaller than the minimum lot size permitted in the Zoning District, such area of land shall be considered to lie in the same district as the larger portion of the lot.

## 2.3 Zoning District Map

The written provisions of these Zoning Regulations shall apply to the Zoning Districts as shown on the official Zoning District Map, such Map being a part of these Zoning Regulations.

## 2.4 Uses and Exemptions for Districts - Generally

**2.4.1 Application** - Except as otherwise specifically provided in these Zoning Regulations, no use shall be allowed in a Zoning District except for those uses specifically mentioned as being allowed in such Zoning District. The DRB may, on appeal or in considering a conditional use application, allow a use which it finds is substantially similar to a use specifically mentioned as being allowed in such Zoning District.

**2.4.2 Nonconforming Uses** - Nonconforming uses shall be allowed to continue as provided in Section 4.9, *Nonconforming Uses,* of these Zoning Regulations.

**2.4.3 Uses Subject to Site Plan Review** - Many allowed uses require "Site Plan Review" by the DRB under Section 5.5 of these Zoning Regulations. Such uses have been identified as having significant impacts on the area and/or resources of the Town. The uses to which site plan review applies are identified in section 5.5.1. If an application is considered under Conditional Use review (section 5.6), then Site Plan review criteria shall also be considered by the DRB, though no separate hearing is required.

**2.4.4 Recreational Paths** - Recreation paths shall be allowed in any district. Parcels of land which do not meet the lot area requirements for a Zoning District but which are suitable for recreation path use may be conveyed to the Town, a land trust, or similar group, to be utilized for such purposes.

**2.4.5 Accepted Agricultural and Silvicultural Practices** – In accordance with the Act (§4413), accepted agricultural practices as defined by the Secretary of Agriculture, Food and Markets (including Farm Structures) and accepted silvicultural practices as defined by the Commissioner of Forests, Parks and Recreation, are not regulated by these Zoning Regulations. However, a person shall notify the Administrative Officer in writing of the intent to build a Farm Structure and shall abide by all setback requirements approved by the Secretary of Agriculture, Food and Markets.

## 2.5 Land Capability

No application shall be approved and no Zoning Permit shall be issued for Land Development unless the lot meets the following criteria in addition to the other applicable requirements of these Zoning Regulations. These criteria are designed to ensure the capability of the land to support the proposed Land Development.

**2.5.1 Areas with Special Guidelines for Land Development** - The following portions of a lot are governed by the following special provisions:

a) Land within the Flood Hazard Overlay District must meet the provisions of Section 6.8, *Flood Hazard Overlay District*, of these Zoning Regulations;
b) Land within the Water Source Protection Areas must meet the provisions of Section 6.10, *Water Supply Source Protection*, of these Zoning Regulations;
c) Land with a slope of 20% or more must meet the provisions of Section 6.11, *Steep Slopes*, of these Zoning Regulations; and,
d) Land within 50 ft. of a shoreline must meet the provisions of Section 6.7, *Shoreline Protection Overlay District*, of these Zoning Regulations.

**2.5.2 Non-Developable Portions** - Each Lot must contain at least one contiguous 10,000 square foot area of land that is capable of supporting Land Development, excluding land on the lot that is subject to a permanent conservation easement held by a qualified organization in accordance with 10 VSA §6301a.(2). The following areas of a lot shall be deemed incapable of supporting any Land Development:

a) Wetlands, streams, rivers, ponds, or lakes;
b) Slopes equal to or greater than thirty-five percent - 35%;
c) Publicly owned land or publicly owned or controlled Road or Highway right of ways;

d) Privately owned vehicular or utility easements or rights of way;
e) Those portions of a lot for which development rights have been transferred to another party; and,
f) Any land within the flood hazard overlay district for uses not authorized within the flood hazard overlay district (Section 6.8).

### 2.6 Administratively Created Lots

**2.6.1** A Zoning Permit may be issued by the Administrative Officer for the division of one (1) lot (the "original lot") which exceeds 25 acres into two (2) lots (the "remainder lot" and the "new lot") without DRB review under the Richmond Subdivision Regulations as amended, provided neither the "remainder lot" nor the "new lot" shall be further subdivided within seven (7) years without DRB approval under the Town of Richmond Subdivision Regulations. Thereafter, either lot may be further subdivided per this section, subject to the same provisions provided within this section. A final plat showing the original and remainder lot shall be filed in the Richmond Town Clerk's Office within 180 days of such approval. If not so filed, the approval shall be void.

**2.6.2** No Zoning Permit may be issued by the Administrative Officer under this Section unless each lot created complies with all pertinent state and local statutes, regulations and ordinances relating to water supply, sewage disposal, vehicular access, environmental impact and other provisions of these Zoning Regulations and with the standards of the Richmond Subdivision Regulations.

**2.6.3** A Zoning Permit for an administratively created lot may be appealed to the DRB under Section 8.4.1, and shall be recorded in the land records of the town in accordance with Section 8.5.

## 3. ZONING DISTRICT REGULATIONS - SPECIFIC - USE INDEX

No Zoning Permit shall be issued for Land Development on any lot in any Zoning District unless such Land Development is permitted in that Zoning District and complies with the requirements and standards set forth for that Zoning District and all other rules and regulations applicable to such Land Development.

The chart below summarizes the uses allowed by district, and the required level of review for obtaining a Zoning Permit. In the case of a conflict between a particular use in the following table and the list of uses in the section that pertains to a particular zoning district, the section pertaining to the zoning district shall control.

| | | |
|---|---|---|
| A | = | Administrative Review by the Administrative Officer, with no review required by the DRB. |
| SP | = | Site Plan Review by the DRB (see Section 5.5), after the Administrative Officer has reviewed the application for completeness and general compliance with these Zoning Regulations. |
| CU | = | Conditional Use Review by the DRB (see Section 5.6), which includes Site Plan Review criteria, after the Administrative Officer has reviewed the application for completeness and general compliance with these Zoning Regulations. |
| Blank | = | Use is not allowed in that district. |

Only one use is permitted on one lot unless multiple uses are provided for by these Zoning Regulations. NOTE: The following chart is for reference purposes only. Each zoning district chapter shall be reviewed to determine the allowed uses within the zoning district.

**A/R:** Agricultural / Residential District; **HDR:** High Density Residential District; **R/C:** Residential / Commercial District; **G:** Gateway Commercial District; **V/C:** Village Commercial; **C:** Commercial District; **I/C:** Industrial / Commercial District; **MHP:** Mobile Home Park District.

| **Use Allowed in District** | **A/R** | **HDR** | **R/C** | **G** | **V/C** | **C** | **I/C** | **MHP** |
|---|---|---|---|---|---|---|---|---|
| Accessory Dwelling[1] | A/CU | A/CU | A/CU | A/CU | A/CU | A/CU | A/CU | A/CU |
| Accessory Uses or Structures | A | A | A | A | A | A | A | A |
| Adaptive Use | CU | CU | CU | CU | CU | CU | CU | |
| Agriculture | CU | CU | CU | CU | CU | CU | CU | CU |
| Amusement Arcade | | | | CU | | CU | CU | |
| Artists/Crafts Studio | CU | CU | SP | SP | SP | SP | SP | |
| Automobile and/or marine sales | | | | | | CU | CU | |
| Automobile Service Station | | | | CU | | CU | CU | |
| Bank | | | | CU | CU | CU | CU | |
| Bed and Breakfast | SP | SP | SP | SP | | | | |
| Boarding or Rooming House | | | | | CU | CU | | |
| Business Yard | | | | | CU | CU | SP | |
| Car Wash | | | | | | CU | SP | |
| Catering Services | | | | CU | CU | CU | SP | |
| Cemetery | CU | CU | CU | CU | | | | |
| Commercial Multi-Use | | | | CU | CU | CU | CU | |
| Communication Use | | | | | | | CU | |
| Cottage Industry[2] | CU | CU | CU | CU | | | | |
| Day Care Center | CU | CU | CU | CU | SP | SP | | CU |
| Child Care Home [3] | A/CU | A/CU | A/CU | A/CU | | | | A/CU |
| Distribution Center | | | | | | CU | SP | |
| Dwelling, Residential | | | | | | | | |
| Single-Family | A | A | A | CU[4] | | | | A |
| Two-Family | A | A | A | CU | | | | A |
| Multi-Family (Three or Four Units) | | CU | CU | CU | | | | |
| Educational Facility | CU | CU | CU | CU | CU | CU | | |
| Equipment Supply and Rental | | | | | CU | CU | SP | |
| Extraction of Earth Resources | CU | CU | CU | CU | | CU | CU | |
| Food Processing Establishment | | | | | CU | CU | SP | |
| Funeral Parlor | | | CU | CU | CU | CU | | |
| Garage, Repair | | | | | CU | CU | CU | |
| Group Home [6] | A | A | A | CU | | | | A |
| Home Occupation | A | A | A | A | | | | A |
| Horticulture | CU | CU | CU | CU | CU | CU | CU | CU |
| Hotel / Motel | | | | CU | CU | CU | CU | |
| Inn or Guest House | CU | CU | CU | CU | SP | SP | | |
| Kennel | CU | | | CU | | | CU | |
| Light Manufacturing | | | | | | | | |
| Business, Maximum 5000 s.f. | | | | CU | | | | |
| Business, No Maximum s.f. | | | | | CU | CU | CU | |
| Lumber Yard | | | | | CU | CU | CU | |
| Mobile Home Park | | | | | | | | CU |
| Museum | CU | CU | CU | CU | SP | SP | | |
| Office | | | | | | | | |
| Business, Maximum 2500 s.f. | | | CU | | | | | |
| Business, Maximum 5000 s.f. | | | | CU | | | | |
| Business, No Maximum s.f. | | | | | SP | SP | SP | |
| Professional, Maximum 2500 s.f. | CU | CU | CU | | | | | |
| Professional, Maximum 5000 s.f. | | | | CU | | | | |
| Professional, No Maximum s.f. | | | | | SP | SP | SP | |

| Use Allowed in District | A/R | HDR | R/C | G | V/C | C | I/C | MHP |
|---|---|---|---|---|---|---|---|---|
| Personal Services | | | | | | | | |
| Maximum per business 2500 s.f. | CU | CU | CU | | | | | |
| Maximum per business 5000 s.f. | | | | CU | | | | |
| NO Maximum square footage | | | | | SP | SP | SP | |
| Planned Residential Development[5] | CU | CU | CU | CU | CU | CU | CU | |
| Planned Unit Development[5] | | | CU | CU | CU | CU | CU | |
| Private Club | | | | | CU | CU | CU | |
| Recreation Facility or Park, Outdoor | CU | CU | CU | CU | CU | CU | CU | CU |
| Recreation Facility, Indoor | | | | CU | CU | CU | | |
| Religious Use | CU | CU | CU | CU | SP | SP | | |
| Research Laboratory | | | | | CU | CU | CU | |
| Research Laboratory, Max 5000 s.f. | | | | CU | | | | |
| Restaurant | | | | | | | | |
| Fast-Food / Take-Out | | | | | CU | CU | CU | |
| Standard, No maximum s.f. | | | | | SP | SP | CU | |
| Standard, Maximum 2500 s.f. | | | CU | | | | | |
| Standard, Maximum 5000 s.f. | | | | CU | | | | |
| Retail | | | | | | | | |
| Business, max. 2500 s.f./floor | | | CU | | | | | |
| Business, max. 5000 s.f./floor | | | | CU | | | | |
| Business, No Maximum | | | | | SP | SP | CU | |
| Retirement Community | CU | CU | CU | CU | CU | CU | | |
| Silviculture | CU | CU | CU | CU | CU | CU | CU | CU |
| State and Community Operated Facility | CU | CU | CU | CU | CU | CU | CU | |
| Storage, Indoor | | | | | | | CU | |
| Storage, Outdoor | | | | | CU | CU | CU | |
| Tavern | | | | | CU | CU | CU | |
| Theater | | | | | SP | SP | CU | |
| Warehouse Use | | | | | | CU | SP | |
| Wholesale Trade | | | | | CU | CU | SP | |

[1] Conditional use review shall be required for accessory dwellings that increase the height or footprint of the single-family dwelling or for accessory dwellings which are to be located in a new accessory structure. In addition, accessory dwellings that are located in nonconforming single family structures (in certain districts) are an allowed use,

[2] This applies to Cottage Industries that are not Home Occupations, as Home Occupations do not require conditional use review (see Sections 5.6.7 and 5.11, and definition in Section 7).

[3] For a Child Care Home with a maximum of six full-time and four part-time children, a permit is issued following administrative review only. For a Child Care Home serving more than six full-time and four part-time children, a conditional use review is required (DRB review).

[4] In the Gateway Commercial district, the single-family dwelling must be attached to a principal structure approved for a permitted or conditional use.

[5] For PUDs and Residential PUDs, a separate conditional use review by the DRB is only required in the case that no subdivision is proposed; if a subdivision is proposed, the PUD or Residential PUD will be reviewed concurrently with the subdivision review (see Section 5.12.1).

[6] A group home within 1,000 feet of another group home requires conditional use review.

## 3.1 Agricultural / Residential District (A/R)

**Purpose** - The Residential /Agricultural District is designed primarily to retain and provide areas of low density housing, particularly of the single-family type, in a rural setting. Agricultural and forestry uses of all types are essential to the concept of a rural setting. Areas of moderate density housing surrounded by open space or working landscapes, as well as homesteading occupations and cottage industries are accepted features of this district. Privacy, greenery, scenic views and vistas, local natural recreational opportunities, working residences and/or small residential clusters constitute the "character of the neighborhood".

**3.1.1 Allowable Uses on Issuance of Zoning Permit by Administrative Officer** - The following uses shall be allowed in the A/R District after issuance of a Zoning Permit by the Administrative Officer. Unless otherwise provided, only one principal use may be approved on one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses and structures to uses in 3.1.1.
c) Child Care Home as provided in Section 5.11.
d) Group Home as provided in Section 5.11.
e) Home Occupation as provided in Section 5.11.
f) One bed and breakfast.
g) One single-family residential dwelling.
h) One two-family residential dwelling.
i) Agriculture, silviculture and horticulture.

**3.1.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses may be allowed in the A/R District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with accessory structures, may be approved on one lot:

a) Adaptive use, as provided in Section 5.6.8.
b) Artist/Craft studio
c) Cemetery.
d) Cottage industry as provided in Section 5.6.7.
e) Day care center.
f) Extraction of earth resources as provided in Section 5.6.6.
g) Inn or guest house.
h) Kennel.
i) Museum.
j) Professional offices with a maximum size of 2500 square feet gross floor area.
k) Personal Service with a maximum size of 2500 square feet gross floor area.
l) Planned Residential Development, as provided in Section 5.12.
m) Outdoor recreation facility or park.
n) Religious or educational facility as provided in Section 5.10.4 .
o) Retirement community.
p) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4 .
q) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.1.3 Dimensional Requirement For lots in the A/R District** - No Zoning Permit may be issued for Land Development in the A/R District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - No lot shall be less than one (1) acre. The purchase of additional land by the owner of such lot from an adjacent lot owner shall be permitted, provided such purchase does not create a lot of less than the minimum lot area required in the Zoning District for the lot on the part of the seller..
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of fifty (50) feet can be inscribed within the boundary of the lot.

c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than one hundred (100) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2, Required Frontage, and 4.3, Approval for Interior Lots with No Frontage.
d) **Lot Coverage** - The total amount of ground on a lot that can be covered by any structure or impervious material shall not exceed 30%.

**3.1.4 Dimensional Limitations for Structures on Lots in the A/R District** - No Zoning Permit may be issued for a structure in the A/R District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6, Taller Structures, of these Zoning Regulations.
b) **Front Yard Setback** - All structures shall be set back at least thirty (30) feet from each front lot line, or fifty-five (55) from the center line of each public or private Road or Highway right of way contiguous to the lot, whichever is greater.
c) **Side Yard Setback** - A principal structure shall be set back at least twenty (20) feet from each side lot line. An accessory structure shall be set back at least ten (10) feet from the side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least twenty (20) feet from a rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot line.

**3.1.5 Other Requirements Applicable to Lots in the A/R District** - No Zoning Permit may be issued for Land Development in the A/R District unless the Land Development meets the following requirements:

a) **Parking Requirements** - Parking requirement shall be regulated as provided in Section 6.1.
b) **Signs** - Signs shall be regulated as provided in Section 5.7.
c) **Access** - Access shall be regulated as provided in Section 4.1 through 4.4.
d) **Traffic Impact** - Traffic shall not exceed 10 vehicle trip ends during the peak evening hours.

**3.1.6 Residential PUD** - Subdivision of lots using a Residential PUD under Section 5.12 of these Zoning Regulations is encouraged in the A/R District and is required for all subdivisions over nine (9) lots in the A/R District as provided in Section 5.12.2. The retention of agricultural, forest or outdoor recreational land will be encouraged in such Residential PUD subdivisions.

## 3.2 High Density Residential District (HDR)

**Purpose** - The standards of this district are designed to promote the higher density housing that is characteristic of village centers and growth areas. The efficient use of infrastructure will be served by allowing closer placement of residential units, with neighborhoods located close to the retail services of the commercial district. This proximity allows for energy-efficient pedestrian traffic, roadways and school bus traffic. Planning for road crossings, sidewalks, curbside trees, bikeways, pocket parks and recreational activities, and other amenities, will be crucial to maintaining an inviting atmosphere while encouraging high density residential growth. Various types of residential units may be permitted in a Residential PUD within the HDR district.

Traditional spacing and setbacks for houses shall be maintained to preserve the integrity of the New England village atmosphere. Home occupations within residences, day care facilities, proximity to schools and civic institutions, pedestrian pathways to essential services and close-knit residential groups constitute the "character of the neighborhood."

**3.2.1 Allowable Uses on Issuance of Zoning Permits by Administrative Officer** - The following uses shall be allowed in the HDR District after issuance of a Zoning Permit by the Administrative Officer. Unless otherwise provided, only one principal use may be approved on one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses or structures to the uses in 3.2.1.
c) Child care home, as provided in Section 5.11.
d) Group home, as provided in Section 5.11.
e) Home occupation, as provided in Section 5.11.
f) One bed and breakfast.
g) One single-family dwelling unit.
h) One two-family dwelling.

**3.2.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses may be allowed in the HDR District after issuance of a conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot.

a) Adaptive uses as provided in Section 5.6.8.
b) Artist/Craft studio.
c) Cemetery.
d) Cottage industry as provided in Section 5.6.7.
e) Day-care center.
f) One multi-family dwelling with three or four dwelling units except in a Residential PUD in the HDR District, where more than one multi-family dwelling may be permitted on a lot within a Residential PUD so long as the number of units proposed for the entire Residential PUD does not exceed the number which could have been approved for the subdivision of the lot without a Residential PUD, as provided in Section 5.12.
g) Extraction of earth resources as provided in Section 5.6.6.
h) Inn or guest house.
i) Museum.
j) Office, Professional with a maximum size of 2,500 square feet of gross floor area.
k) Personal Service with a maximum size of 2,500 square feet gross floor area.
l) Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
m) Outdoor recreational facility or park.
n) Religious or educational facility as provided in Section 5.10.4 .
o) Retirement community.
p) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4 .
q) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.2.3 Dimensional Requirements for Lots in the HDR District** - No Zoning Permit may be issued for Land Development in the HDR District unless that lot proposed for such Land Development meets the following dimensional requirements.

a) **Lot Area** - Except as provided under Section 4.6.1, no lot served by a municipal water and sewer system shall be less than 2/3 acre. This minimum lot area requirement shall be increased to one (1) acre for any lot not served by municipal water and sewer systems. The purchase of additional land by the owner of a lot from an adjacent lot owner will be permitted, provided such purchase does not create a lot of less than such minimum size on the part of the seller. In the case of the use of a lot for a multi-family dwelling of 3 or more units for lots served by municipal water and sewer systems, two-third (2/3) acre of land per dwelling unit shall be required. In the case of a use of a lot for a multi-family dwelling of three (3) or more units, one (1) acre per dwelling unit shall be required for lots not served by municipal water and sewer systems.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of thirty-five (35) feet can be inscribed within the boundary of the lot.

c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than seventy-five (75) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.
d) **Lot Coverage** - The total ground area of a lot covered by all structures, parking areas, walkways, driveways, and areas covered by impervious materials shall not exceed forty percent (40%) of the total ground area of the lot.

**3.2.4 Dimensional Limitations for Structures on Lots in the HDR District** - No Zoning Permit may be issued for a structure in the HDR District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Height** - The height of any structure, with the exception of exemptions listed in Section 6.6, shall not exceed thirty-five (35) feet.
b) **Front Yard Setback** - All structures shall be set back at least twenty (20) feet from each front lot line, or thirty-five (35) feet from the center line of each public and private Road or Highway right of way contiguous to the lot, whichever is greater.
c) **Side Yard Setback** - A principal structure shall be set back at least ten (10) feet from each side lot line. An accessory structure shall be set back at least five (5) feet from each side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least five (5) feet from the rear lot line.
e) **No Build Zone** - No construction of improvements may occur within five (5) feet of any lot line (except for fences and walls which mark property boundaries or enclose portions of the property and are less than 6 feet high). "Construction of improvements" means all construction activities such as, but not limited to, driveways (except where adjacent to the public or private right of way providing access to the lot), fences, recreational improvements, parking areas, excavation, grading or filling.

**3.2.5 Other Requirements Applicable to the HDR District** - No Zoning Permit may be issued for Land Development in the HDR district unless the Land Development meets the following requirements:

a) **Parking Requirements** - Parking requirements shall be regulated as provided in Section 6.1.
b) **Signs** - Signs shall be regulated as provided in Section 5.7.
c) **Traffic Impact** - No Zoning Permit shall be issued for a use which generates more than 10 vehicle trip ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize "Trip Generation - Seventh Edition - 2003", Institute of Traffic Engineers (ITE), or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates.
d) **Access** - Access shall be regulated as provided in Sections 4.1 through 4.4.

**3.2.6 Residential PUD** - Subdivision of lots using a Residential PUD under Section 5.12 of these Zoning Regulations are encouraged in the HDR District and are required for subdivisions of over three (3) lots in the HDR District, as provided in Section 5.12.2, in order to encourage innovation of design and layout of residential uses.

## 3.3 Residential / Commercial District (R/C)

**Purpose** - The standards of this district are designed to allow residential use and residential-compatible commercial use to co-exist in a traditional village style; to allow for the transition of residences to residential-appearing businesses in the "downtown village" area; and to encourage flexibility of economic development

while protecting existing residences. The “character of the neighborhood” is primarily residential, with the addition of residential-compatible retail uses to uses found in other residential districts. Businesses shall resemble residences in size and architectural characteristics.

Traditional spacing and setbacks for houses will maintain the integrity of the New England village atmosphere. Home occupations within residences, day care facilities, proximity to schools and civic institutions, pedestrian pathways to essential services and close-knit residential groups constitute the “character of the neighborhood”.

**3.3.1 Allowable Uses on Issuance of Zoning Permits by Administrative Officer** - The following uses shall be allowed for any lot in the R/C District after issuance of a Zoning Permit by the Administrative Officer. Unless otherwise permitted, only one principal use shall be permitted on one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses or structures to the uses in 3.3.1.
c) Child care home, as provided in Section 5.11.
d) Group home, as provided in Section 5.11.
e) Home occupation, as provided in Section 5.11.
f) One bed and breakfast.
g) One single-family dwelling unit.
h) One two-family dwelling.

**3.3.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses shall be allowed in the R/C District upon issuance of a conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on any one lot.

a) Adaptive uses as provided in Section 5.6.8.
b) Artist/Craft studio.
c) Cemetery.
d) Cottage industry as provided in Section 5.6.7.
e) Day care center.
f) One multi-family dwelling with three or four dwelling units.
g) Extraction of earth resources as provided in Section 5.6.6.
h) Funeral parlor.
i) Inn or guest house.
j) Museum.
k) Office, Business.
l) Office, Professional.
m) Personal service business.
n) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
o) Outdoor recreational facility or park.
p) Religious or educational facility as provided in Section 5.10.4 .
q) Restaurant, standard.
r) Retail business.
s) Retirement community.
t) State- or community-owned and operated facilities, to the extent allowed by Section 5.10.4 .
u) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.3.3 Dimensional Requirement for Lots in the R/C District** - No Zoning Permit may be issued for Land Development in the R/C District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, no lot served by a municipal water and sewer system shall be less than 1/3 acre. This minimum lot area requirement shall be increased to one (1) acre for any lot not served by municipal water and sewer systems. The purchase of additional land by the owner of a lot from an adjacent lot owner will be permitted, provided such purchase does not create a lot of less than the minimum area required in the Zoning District on the part of the seller. In the case of use of a lot for 3 or more dwelling units served by municipal water and sewer systems, one-third (1/3) acre of land per dwelling unit shall be required and one (1) acre of land per dwelling unit shall be required for lots not served by municipal water and sewer systems.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of twenty-five (25) feet can be inscribed within the boundary of the lot.
c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than seventy-five (75) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.
d) **Lot Coverage** - The total ground area of a lot covered by all structures, parking areas, walkways, driveways, and areas covered by impervious materials shall not exceed forty percent (40%) of the total ground area of the lot.

**3.3.4 Dimensional Limitations for Structure on Lots in the R/C District** - No Zoning Permit may be issued for a structure in the R/C District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures shall be set back at least twenty (20) feet from each front lot line, or thirty-five (35) feet from the center line of each public or private Road or Highway right of way contiguous to the lot, whichever is greater. Accessory structures shall be placed no closer to the front lot line than the principal structure.
c) **Side Yard Setback** - A principal structure shall be set back at least ten (10) feet from each side lot line. An accessory structure shall be set back at least five (5) feet from the side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least five (5) feet from the rear lot line.

**3.3.5 Other Requirements Applicable to Lots in the R/C District** - No zoning Permit may be issued for Land Development in the R/C District unless the Land Development meets the following requirements:

a) **Parking Requirements** - Parking Requirements shall be regulated as provided in Section 6.1.
b) **Loading Space Requirements** - Off-Road or Highway loading requirements shall be as required in Section 6.1.
c) **Signs** - Signs shall be regulated as provided in Section 5.7.
d) **Traffic Impact** - No permit or approval shall be issued for a use which generates more than 35 vehicle trip ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize “Trip Generation - Seventh Edition - 2003”, Institute of Traffic Engineers (ITE) , or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates.
e) **Access** - Access shall be regulated as provided in Sections 4.1 through 4.4.

f) **Character of the Neighborhood Standards** - In addition to the specific standards listed under Section 5.6.2 for conditional use approval, any non-residential use in the R/C District shall also meet the following standards prior to issuance of conditional use approval:
   i. A non-residential use shall not exceed 2500 square feet gross floor area per floor with a two story maximum. A building containing dwelling units, a group home, or a guest house is a "residential use" for the purposes of this subsection.
   ii. All new structures or additions to existing structures shall be residential in character with style, massing, lot placement and scale similar to those found in the existing residential neighborhood.
   iii. For conversions of residences to commercial or multi-family use, fire escapes, signs, storefront windows or other features that will compromise the architectural integrity of the building shall not be placed on the front of the building.

## 3.4 Gateway Commercial District (G)

**Purpose** - The standards of this district are designed to allow for commercial uses in an area that has importance as a scenic entrance to the Town of Richmond. The rural character of the northern approach to the Town will be enhanced by carefully planned commercial development, and urban strip development will be avoided. Accesses here will be carefully managed, curb cuts will be few, and internal circulation required to avoid impeding the flow of traffic on Route 2. Green space, landscaping to screen parking from both Route 2 and other "character of the neighborhood" criteria must be met in order to retain the flavor of an entranceway to a dynamic yet rural and historic small town.

**3.4.1 Allowable Uses on Issuance of Zoning Permits by Administrative Officer** - The following uses shall be allowed for any lot in the G District after issuance of a Zoning Permit by the Administrative Officer. Unless otherwise permitted, only one principal use shall be permitted on one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses or structures to the uses in 3.4.1.
c) Bed and breakfast.

**3.4.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses, with accessory structures, may be allowed in the G District after issuance of conditional use approval by the DRB.

a) Adaptive use as provided in Section 5.6.8.
b) Amusement arcade.
c) Artist/Craft studio.
d) Automobile service station.
e) Bank.
f) Catering service.
g) Cemetery.
h) Cottage industry as provided in Section 5.6.7.
i) Day care center.
j) Dwelling, single-family attached to a principal structure approved for a permitted or conditional use.
k) Dwelling, two-family
l) Dwelling, multi-family with three or four dwelling units.
m) Educational or religious facility as provided in Section 5.10.4 .
n) Extraction of earth resources as provided in Section 5.6.6.
o) Funeral parlor.
p) Group home, as provided in Section 5.11.
q) Hotel or motel.
r) Inn or guest house.
s) Kennel
t) Light Manufacturing, with a maximum size of 5000 square feet of gross floor area.

u) Multi-use commercial building with uses from this section or 3.4.1.
v) Museum.
w) Offices, Business, with a maximum size of 5000 square feet gross floor area.
x) Offices, Professional, with a maximum size of 5000 square feet gross floor area.
y) Personal services with a maximum size of 5000 square feet gross floor area.
z) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
aa) Recreation, indoor or outdoor facility or park.
bb) Research laboratory with a maximum size of 5000 square feet gross floor area.
cc) Restaurant, standard with a maximum size of 5000 square feet gross floor area.
dd) Retail business with a maximum size of 5000 square feet gross floor area.
ee) Retirement community.
ff) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4 .
gg) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.4.3 Dimensional Requirements Applicable to Lots in the G District** - No Zoning Permit shall be issued for Land Development in the G District unless the lot proposed meets the following dimensional and/or density requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, no lot served by municipal or community water and sewer systems shall be less than 1/3 acre. This minimum lot area requirement shall be increased to one (1) acre for any lot not served by municipal or community water and sewer systems. If multiple uses are permitted in one or more buildings on a lot, the lot shall be of sufficient size to allow 1/3 acre per use *with* municipal or community water and sewer or 1 acre per use *without* municipal or community water and sewer. In the case of use of a lot for 3 or more dwelling units served by municipal or community water and sewer systems, one-third (1/3) acre of land per dwelling unit shall be required and one (1) acre of land per dwelling unit shall be required for lots not served by municipal or community water and sewer systems.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of twenty-five (25) feet can be inscribed within the boundary of the lot.
c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than seventy-five (75) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.
d) **Lot Coverage** - The total ground area covered by all structures, parking areas, walkways, driveways and any other impervious surfaces shall not exceed forty percent (40%) of the total ground area of the lot.

**3.4.4 Dimensional Limitations for Structures on Lots in the G District** - No Zoning Permit shall be issued for a structure in the G District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures shall be set back at least fifty (50) feet from the edge of the Route 2 right-of-way and thirty (30) feet from the edge of all other right-of-ways.
c) **Side Yard Setback** - A principal structure shall be set back at least ten (10) feet from each side lot line. An accessory structure shall be set back at least five (5) feet from the side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot.
e) **Maximum Building Size** - No building shall have a footprint exceeding 10,000 square feet.

**3.4.5 Other Requirements Applicable to Lots in the G District** - No Zoning Permit shall be issued for Land Development in the G District unless the Land Development meets the following requirements:

a) **Parking** - Parking shall be located to the side or rear of the building. Parking areas shall be landscaped to minimize the visual impact from neighboring roads and properties. Shared parking with neighboring properties shall be encouraged. Parking shall be otherwise regulated as provided in Section 6.1.
b) **Loading Space Requirements** - Off Road or Highway loading requirements shall be regulated as provided in Section 6.1.
c) **Signs** - Signs shall be regulated as provided in Section 5.7.
d) **Traffic Impact** - No permit or approval shall be issued for a use which generates more than 70 vehicle trip ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize "Trip Generation - Seventh Edition - 2003", Institute of Traffic Engineers (ITE), or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use if a use contains unique characteristics that cause it to differ from national traffic estimates.
e) **Access** - Any curb cuts created in addition to the ones already existing as of the date of these Zoning Regulations, shall be no closer than 250 feet to any other existing or new curb cut for Route 2. An access shall otherwise be regulated as provided in Sections 4.1 through 4.4. Existing curb cuts shall be eliminated when possible.
f) **Character of the Neighborhood** - In addition to the specific standards listed in Section 5.6.2for conditional use approval, any use in the Gateway District shall also meet the following standards prior to the issuance of conditional use approval:
    i. A single principal structure must have an entrance and windows facing toward Route 2. Multiple grouped buildings may have their entrances in whatever direction is appropriate to their access. Within a group, the building closest to Route 2 must have an entrance or windows facing Route 2.
    ii. Principal structures must have a steeply pitched roof (4:12) or greater.
    iii. There must be landscaping between the building and Route 2 of 50'.
    iv. Structures shall be built of, or have an appearance of, wood or brick.

## 3.5 Village Commercial District (V/C)

**Purpose** - The standards of this district are designed to retain and provide areas for the sale of retail or wholesale of those types of goods and services required by the residents of the community. Strip development with multiple curb cuts is discouraged. An attractive, pedestrian friendly, compact area of retail operations is encouraged. Parking and traffic flow shall be considered as part of the site plan review process for any Land Development in this district. Residential uses that are compatible with a village commercial district will be permitted after conditional use approval and site plan review.

**3.5.1 Allowable Uses Upon Issuance of Zoning Permit by Administrative Officer** - The following uses shall be allowed uses in the V/C District upon issuance of a Zoning Permit by the Administrative Officer. Site Plan Review and approval by the DRB shall also be required. Unless otherwise provided, only one principal use may be approved on any one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses or structures, except outdoor storage, to the uses in 3.5.1.
c) Artist/Craft studio.
d) Day care center.
e) Inn or guest house.
f) Museum.
g) Office, business or professional.
h) Personal services business.
i) Religious use as provided in Section 5.10.4

j) Restaurant, standard.
k) Retail business.
l) Theater, indoor.

**3.5.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses may be allowed in the V/C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot.

a) Adaptive use as provided in Section 5.6.8.
b) Bank.
c) Catering service.
d) Commercial multi-use building.
e) Business yard.
f) Educational facility as provided in Section 5.10.4 .
g) Equipment supply and/or rental.
h) Funeral parlor.
i) Garage, vehicle repairs and service.
j) Group home.
k) Hotel or motel.
l) Light manufacturing
m) Lumber yard / Building supply business.
n) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
o) Private club.
p) Recreation, indoor or outdoor, facility or park.
q) Research laboratory.
r) Restaurant, fast food or take-out.
s) Retirement community.
t) Rooming or boarding house.
u) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
v) Storage, outdoor as an accessory use to any permitted or conditional use.
w) Tavern.
x) Wholesale trade.
y) Dwelling Units as part of a Planned Unit Development.
z) Agriculture, silviculture and horticulture as provided in Section 2.4.5 .

**3.5.3 Dimensional Requirement for Lots in the V/C District** - No Zoning Permit may be issued for Land Development in the V/C District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, no lot served by a municipal or community water and sewer system shall be less than one-third (1/3) acre. This minimum lot area requirement shall be increased to one (1) acre for any lot not served by municipal or community water and sewer systems. The purchase of additional land by the owner of a lot from an adjacent lot owner will be permitted, provided such purchase does not create a lot of less than the minimum area required in the Zoning District on the part of the seller. In the case of a lot for three (3) or more dwelling units served by municipal or community water and sewer systems, one-third (1/3) acre of land per dwelling unit shall be required and one (1) acre of land per dwelling unit shall be required for lots not served by municipal or community water and sewer systems.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of twenty-five (25) feet can be inscribed within the boundary of the lot.
c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than seventy-five (75) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.

d) **Lot Coverage** - The total ground area covered by all structures, parking areas, walkways, driveway and areas covered by impervious materials shall not exceed fifty percent (50%) of the total ground area of the lot.

**3.5.4 Dimensional Limitations for Structures on Lots in the V/C District** - No Zoning Permit may be issued for a structure in the V/C District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Building Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures shall be set back at least twenty (20) feet from the front lot line.
c) **Side Yard Setback** - A principal structure shall be set back at least ten (10) feet from each side lot line. An accessory structure shall be set back at least five (5) feet from the side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot.

**3.5.5 Other Requirements Applicable to Lots in the V/C District** - No Zoning Permit may be issued for Land Development in the V/C District unless the Land Development meets the following requirements:

a) **Parking Requirements** - New land development is exempt from meeting the required number of parking spaces, per Section 6.1.2, for the following parcels: 10 East Main Street (EM0010); 26 Bridge Street (BR0026); 30 Bridge Street (BR0030); 38 Bridge Street (BR0038); 39 Bridge Street (BR0039); 48 Bridge Street (BR0048); 52 Bridge Street (BR0052).

With the exception of the number of required parking spaces for those parcels, Section 6.1.2 shall apply to the V/C District. In all other respects. Required parking shall be regulated as provided in Section 6.1 within the V/C district.

a) **Signs** - Signs shall be regulated as provided in Section 5.7.
b) **Traffic Impact** - No permit or approval shall be issued for a use which generates more than 70 vehicle trip ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize “Trip generation - Seventh Edition - 2003”, Institute of Traffic Engineers (ITE), or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates.
c) **Access** - Access shall be regulated as provided in Sections 4.1 through 4.4.

## 3.6 Commercial District (C)

**Purpose** - The standards of this district are designed to retain and provide areas for the sale at retail or wholesale of those types of goods and services required by the residents of the community. Strip development with multiple curb cuts is discouraged. An attractive, pedestrian friendly, compact area of retail operations is encouraged. Parking and traffic flow shall be considered as part of the site plan review process for any Land Development in this district. Residential uses that are compatible with a commercial district will be permitted after conditional use approval and site plan review.

**3.6.1 Allowable Uses Upon Issuance of Zoning Permit by Administrative Officer** - The following uses shall be allowed uses in the C District upon issuance of a Zoning Permit by the Administrative Officer. Site Plan Review and approval by the DRB shall also be required. Unless otherwise provided, only one principal use may be approved on any one lot:

a) Accessory dwelling as provided in Section 5.9.

b) Accessory uses or structures, except outdoor storage, to the uses in 3.6.1.
c) Artist/Craft studio.
d) Day care center.
e) Inn or guest house.
f) Museum.
g) Office, business or professional.
h) Personal services business.
i) Religious use as provided in Section 5.10.4 .
j) Restaurant, standard.
k) Retail business.
l) Theater, indoor.

**3.6.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses may be allowed in the C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot:

a) Adaptive use as provided in Section 5.6.8.
b) Amusement arcade.
c) Automobile and/or marine sales.
d) Automobile service station.
e) Bank.
f) Business yard.
g) Car wash.
h) Catering service.
i) Commercial multi-use building.
j) Distribution Center.
k) Educational facility as provided in Section 5.10.4 .
l) Equipment supply and/or rental.
m) Extraction of earth resources as provided in Section 5.6.6.
n) Funeral parlor.
o) Garage, vehicle repairs and service.
p) Group home.
q) Hotel or motel.
r) Light manufacturing
s) Lumber yard / Building supply business.
t) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
u) Private club.
v) Recreation, indoor or outdoor, facility or park.
w) Research laboratory.
x) Restaurant, fast food or take-out.
y) Retirement community.
z) Rooming or boarding house.
aa) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4 .
bb) Storage, outdoor as an accessory use to any permitted or conditional use.
cc) Tavern.
dd) Warehouse Use.
ee) Wholesale trade.
ff) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.6.3 Dimensional Requirement for Lots in the C District** - No Zoning Permit may be issued for Land Development in the C District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, no lot served by a municipal or community water and sewer system shall be less than one-third (1/3) acre. This minimum lot area requirement shall be increased to one (1) acre for any lot not served by municipal or community water and sewer systems. The purchase of additional land by the owner of a lot from an adjacent lot owner will be permitted, provided such purchase does not create a lot of less than the minimum area required in the Zoning District on the part of the seller. In the case of a lot for three (3) or more dwelling units served by municipal or community water and sewer systems, one-third (1/3) acre of land per dwelling unit shall be required and one (1) acre of land per dwelling unit shall be required for lots not served by municipal or community water and sewer systems.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of twenty-five (25) feet can be inscribed within the boundary of the lot.
c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than seventy-five (75) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.
d) **Lot Coverage** - The total ground area covered by all structures, parking areas, walkways, driveway and areas covered by impervious materials shall not exceed fifty percent (50%) of the total ground area of the lot.

**3.6.4 Dimensional Limitations for Structures on Lots in the C District** - No Zoning Permit may be issued for a structure in the C District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Building Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures shall be set back at least twenty (20) feet from the front lot line.
c) **Side Yard Setback** - A principal structure shall be set back at least ten (10) feet from each side lot line. An accessory structure shall be set back at least five (5) feet from the side lot line.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot.

**3.6.5 Other Requirements Applicable to Lots in the C District** - No Zoning Permit may be issued for Land Development in the C District unless the Land Development meets the following requirements:

a) **Parking Requirements** - Parking shall be regulated as provided in Section 6.1.
b) **Loading Space Requirements** - Off-Road or Highway loading requirements shall be regulated as provided in Section 6.1.
c) **Signs** - Signs shall be regulated as provided in Section 5.7.
d) **Traffic Impact** - No permit or approval shall be issued for a use which generates more than 70 vehicle trip ends during the P.M. peak hour for the first 40,000 square feet of lot area or faction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize “Trip generation - Seventh Edition - 2003”, Institute of Traffic Engineers (ITE), or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates.
e) **Access** - Access shall be regulated as provided in Sections 4.1 through 4.4.

## 3.7 Industrial / Commercial District (I/C)

**Purpose** - The purpose of the Industrial / Commercial District is to foster employment opportunities and help diversify the tax base for the Town. The standards of this district are designed to retain and provide areas for the manufacture, warehousing, jobbing, wholesaling and limited retailing of products which by their inherent characteristics are not obnoxious to one another. The standards are further described to minimize adverse impacts on neighboring properties, visual, noise, odors, etc. and on the visual impacts of the site from roads.

**3.7.1 Allowable Uses Upon Issuance of a Zoning Permit by Administrative Officer** - All of the following uses shall be allowed in the I/C District after issuance of a Zoning Permit by the Administrative Officer and Site Plan and approval by the DRB shall also be required. Only one principal use may be approved on any one lot, with the exception of those lots approved through the PUD/Residential PUD Section.

a) Accessory dwelling, as provided in Section 5.9.
b) Accessory uses or structures, except outside storage, to the uses in 3.7.1.
c) Car wash.
d) Catering service.
e) Equipment service and repair business, including retail sales.
f) Equipment supply and/or rental business, including retail sales.
g) Food processing establishment.
h) Office, Business.
i) Office, Professional.
j) Personal services.
k) Storage and distribution center.
l) Warehousing use.
m) Wholesale trade use.

**3.7.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses, with accessory structures, may be allowed in the I/C District after issuance of conditional use approval by the DRB.

a) Adaptive use as provided in Section 5.6.8.
b) Amusement arcade.
c) Automobile and/or marine sales and/or service business.
d) Automobile service station.
e) Commercial multi-use building
f) Bank.
g) Business yard.
h) Communications, telecommunications, as provided in Section 6.12.
i) Extraction of earth resources as provided in Section 5.6.6.
j) Garage, vehicle repairs and service.
k) Hotel or motel.
l) Kennel.
m) Light manufacturing.
n) Lumber yard or building supply business.
o) Mobile home sales business.
p) Outdoor storage as an accessory use to in connection with any conditional or permitted use.
q) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
r) Private club.
s) Recreation facility, outdoor or indoor.
t) Research laboratory.
u) Restaurant, fast-food or take-out.
v) Restaurant, standard.
w) Retail business.
x) Storage, indoor.
y) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4 .
z) Tavern.
aa) Theater.
bb) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 .

**3.7.3 Dimensional Requirement For Lots in the I/C District** - No Zoning Permit may be issued for Land Development in the I/C District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, no lot shall be less than 1 acre. The purchase of additional land by the owner of a lot from an adjacent lot owner shall be permitted, provided such purchase does not create a lot of less than the minimum area required in the Zoning District on the part of the seller.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of fifty (50) feet can be described within the boundary of the lot.
c) **Lot Frontage** - No lot having frontage on a public or private road shall have less than one-hundred (100) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3.
d) **Lot Coverage** - The total ground area covered by all structures, parking areas, walkways, driveways and areas covered by impervious materials shall not exceed sixty percent (60%) of the total ground area of the lot. If it can be demonstrated that all storm water will be retained on the lot, coverage may be increased to a maximum of 80%.

**3.7.4 Dimensional Limitations for Structures on Lots in the I/C District** - No Zoning Permit may be issued for a structure in the I/C District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Building Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures shall be set back at least fifty (50) feet from the edge of public or private Road or Highway right of way contiguous to the lot.
c) **Side Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the side lot line unless the side walls of such principal structure are of masonry construction and contain no opening in which event the principal structure need not be set back from the side lot lines. An accessory structure shall be set back from the side lot line at least ten (10) feet.
d) **Rear Yard Setback** - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot line.

**3.7.5 Other Requirements Applicable to Lots in the I/C District** - No Zoning Permit may be issued for Land Development in the I/C District unless the Land Development meets the following requirements:
a) **Parking Requirements** - Parking Requirements shall be regulated as provided in Section 6.1.
b) **Loading Requirements** - Off-Road or Highway loading requirements shall be regulated as provided in Section 6.1.
c) **Signs** -Signs shall be regulated as provided in Section 5.7.
d) **Traffic Impact** - No permit or approval shall be issued for a use which generates more than 70 vehicle trips ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize “Trip Generation - Seventh Edition - 2003”, Institute of Traffic Engineers, or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates.
e) **Access** - Access shall be regulated as provided in Sections 4.1 through 4.4.

## 3.8 Mobile Home Park District (MHP)

**Purpose** - The purpose of the Mobile Home Park District is to designate an area in town which supports an intense development of land for residential purposes while recognizing the need to create open spaces,

efficient traffic patterns and comfortable spacing between individual homes. The standards are further described to minimize adverse impacts on neighboring properties, visual, noise, odors, etc. and on the visual impacts of the site from roads.

**3.8.1 Allowable Uses on Issuance of Zoning Permit by Administrative Officer** - The following uses are allowed uses in the MHP District after issuance of a Zoning Permit by the Administrative Officer. Unless otherwise provided, only one principal use may be approved on one lot:

a) Accessory dwelling as provided in Section 5.9.
b) Accessory uses and structures to the uses in 3.8.1.
c) Child care home, as provided in Section 5.11.
d) Group home, as provided in Section 5.11.
e) Home occupation, as provided in Section 5.11.
f) One single-family dwelling unit.
g) One two-family dwelling unit.
h) Agriculture, silviculture and horticulture, as provided in Section 2.4.5 , including one single or two family dwelling.

**3.8.2 Allowable Uses Upon Issuance of Conditional Use Approval** - The following uses may be allowed in the MHP District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot:

a) Day care center.
b) One mobile home park on a lot.
c) Recreation, outdoor facility or park.

**3.8.3 Dimensional Requirement For Lots in the MHP District** - No Zoning Permit may be issued for Land Development in the MHP District unless the lot proposed for such Land Development meets the following dimensional requirements:

a) **Lot Area** - Except as provided under Section 4.6.1, a lot which is not used for a mobile home park shall not be less than one (1) acre. A lot which is used for a MHP shall contain not less than ten (10) acres. The purchase of additional land by the owner of such lot from an adjacent lot owner shall be permitted, provided such purchase does not create a lot of less than the minimum lot area required in the Zoning District on the part of the seller. In the case of use of a lot for a Mobile Home Park, one-quarter acre (1/4) acre of land per dwelling unit in the Mobile Home Park shall be required.
b) **Lot Dimensions** - Each lot must contain a point from which a circle with a radius of fifty (50) feet can be described within the boundary of the lot.
c) **Frontage Required** - No lot shall be created nor developed unless the lot has frontage for a continuous uninterrupted length of not less than one hundred (100) feet or the lot must have access to a public road or a private right of way approved by the DRB pursuant to Sections 4.2 - 4.3.
d) **Lot Coverage** - For a lot used for a Mobile Home Park, the total ground area covered by all structures, parking areas, walkways, driveways, and areas covered by impervious materials shall not exceed forty (40) percent of the total ground area of the lot. For a lot not used as a mobile home park, the lot coverage shall not exceed 30%.

**3.8.4 Dimensional Limitations for Structures on Lots in the MHP District** - No Zoning Permit may be issued for a structure in the MHP District unless the structure proposed for the lot meets the following dimensional requirements:

a) **Height** - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6.
b) **Front Yard Setback** - All structures on a lot which is not used for a Mobile Home Park shall be set back at least thirty (30) feet from each front lot line, or fifty-five (55) feet from the center line of

each public or private Road or Highway right of way contiguous to the lot, whichever is greater. All structures on a lot used for a Mobile Home Park shall be set back at least one hundred (100) feet from each front lot line, or one hundred twenty-five (125) feet from the center line of each public or private Road or Highway right of way contiguous to the lot, whichever is greater.

c) **Side Yard Setback** - A principal structure on a lot which is not used for a Mobile Home Park shall be set back at least twenty (20) feet from each side lot line. An accessory structure shall be set back at least ten (10) feet from the side lot line. All structures on a lot used for a Mobile Home Park shall be set back at least fifty (50) feet from each side lot line. An accessory structure shall be set back at least twenty-five (25) feet from the side lot line.

d) **Rear Yard Setback** - A principal structure on a lot which is not used for a Mobile Home Park shall be set back at least twenty (20) feet from each rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot line. All structures on a lot used for a Mobile Home Park shall be set back at least fifty (50) feet from each rear lot line. An accessory structure shall be set back at least twenty-five (25) feet from the rear lot line.

**3.8.5 Other Requirements Applicable to Lots in the MHP District** - No Zoning Permit may be issued for any Land Development in the MHP District unless the Land Development meets the following requirements:

a) **Parking Requirements** - Parking requirements shall be regulated as provided in Section 6.1.
b) **Signs** - Signs shall be regulated as provided in Section 5.7.
c) **Access** - Access shall be regulated as provided in Section 4.1 through 4.4.
d) **State Approval of Mobile Home Parks** - No Zoning Permit may be issued for Land Development within a mobile home park unless satisfactory evidence is produced to the DRB that all applicable state laws and regulations relating to Land Development have been met.

**3.8.6 Replacement of Mobile Homes** - In accordance with the Act (§4412), no standards under these Zoning Regulations shall have the effect of prohibiting the replacement of a mobile home on an existing site within a mobile home park that is legally in existence as of the Effective Date of these Zoning Regulations. In the event that a mobile home park is determined to be nonconforming under these Zoning Regulations, the determination shall apply to the parcel as a whole, and not to individual mobile home sites within the park. An individual mobile home site that is vacated shall not be considered a discontinuance or abandonment of a nonconforming use or structure.

# 4. REGULATIONS APPLYING TO ALL LOTS

## 4.1 Compliance with Public Works Specifications

All vehicular accesses shall comply with the 2000 Public Works Specifications, or the most recent version of Public Works Specifications at the time of application..

## 4.2 Required Frontage on, or Access to, Roads or Public Waters

In accordance with the Act [§4412(3)], Land Development may be permitted on lots which do not have frontage either on a public road or public waters in conformance with Section 4.3, provided that access through a permanent easement or right-of-way has been approved by the DRB.

## 4.3 Approval for Interior Lots with No Frontage

Land Development proposed for any lot with no frontage on a public road or public water shall provide access to such a road by a permanent easement or right-of-way. The following procedures will be followed for obtaining access to and approval for such lots:

**4.3.1 Review Process** A new or relocated access to any lot without frontage on a public road or public waters shall require DRB approval, under the standards in Section 6.2.

**4.3.2 Required Information** - Applications shall include a plan drawn to scale showing boundaries of all properties crossed by and to be served by the proposed private easement or right-of-way, dimensions and grades of the vehicular access, the point of access onto a public road, and any other information the DRB may require to assure adequate emergency access to all lots and dwelling units.

**4.3.3 Easement Dimensions** - An easement or right-of-way shall be at least thirty (30) feet in width if serving less than four (4) lots. Easements or rights-of-way serving four or more lots shall be at least sixty (60) feet in width and meet the standards in Section 6.2.1 and the current Public Works Specifications.

## 4.4 Curb Cuts

No more than one curb cut shall be allowed onto a public or private Road or Highway right of way affording access to a lot. The Administrative Officer or DRB may impose further reasonable conditions regarding curb cuts including consolidation of access points to public or private Road or Highway rights of way, in the interests of minimizing to the greatest degree possible, a multiplicity of curb cuts. Notwithstanding the foregoing, the DRB, in a conditional use or appeal proceeding, may increase the number of curb cuts, where only one curb cut would result in adverse effects on traffic circulation within the site or on traffic on Roads and Highways in the vicinity.

## 4.5 Multiple Use of Lots

There shall be only one Principal Structure on a lot and there shall only be one use on a lot, unless the lot is part of a Residential PUD or PUD as specified in Section 5.12.

## 4.6 Nonconforming Lots

**4.6.1 Existing Small Lots** - In accordance with the Act [§4412(2)], any lot in individual and separate and non affiliated ownership from surrounding properties, that is legally in existence on the Effective Date of any Richmond Bylaw may be developed for the purposes permitted in the Zoning District in which the lot is located, even though the lot does not conform to minimum lot area requirements of the Zoning District provided such lot is not less than one-eighth (1/8) acre in area and does not have a width or depth dimension of less than 40 feet. Notwithstanding this exception to minimum lot area requirements, no Zoning Permit shall be issued for Land Development on an existing small lot unless such Land Development complies with all other provisions of these Zoning Regulations.

**4.6.2 Lot Merger** - If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, in accordance with the Act, a nonconforming lot shall not be deemed merged and may be separately conveyed if all of the following apply:

a. The lots are conveyed in their preexisting, nonconforming configuration.

b. On the Effective Date of these Zoning Regulations, each Lot was developed with a water supply and wastewater disposal system.
c. At the time of transfer, each water supply and wastewater disposal system is functioning in an acceptable manner.
d. If the Lot is not served by municipal water and sewer, the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined by 10 V.S.A. Chapter 64.

## 4.7 Nonconforming Structures

The following shall apply to all nonconforming structures, except for those within the Flood Hazard Overlay District, which also must comply with the provisions of Section 2.*** of these regulations:

a. May undergo normal repair and maintenance without a permit if such action does not increase the structure's degree of nonconformity
b. May be restored ore reconstructed after damage to its prior condition from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that a zoning permit is obtained within 12 months of the date the damage occurred.

A Nonconforming structure may be replaced or restored after damage or destruction by fire or other casualty, and expansion may be permitted as long as the noncompliance of any aspect of the structure is not increased; provided, however, that such replacement or restoration shall be substantially complete within 365 days of the date of the damage or destruction. The DRB may permit such extensions of the 365 day time period as may be equitable, if the lot owner is prevented from commencing or substantially completing construction due to circumstances beyond the lot owner's control. A damaged or destroyed Nonconforming structure which is not substantially replaced or restored in compliance with this section shall not thereafter be used and shall be removed.

## 4.8 Setback Modifications

**Purpose -** Richmond contains a large number of buildings that were built prior to the enactment of Richmond's Zoning Regulations and do not conform to setback and/or lot coverage requirements. Current zoning may prohibit even small increases in these buildings due to the restrictions on setbacks and lot coverage. Small increases in the size of these buildings may, in appropriate cases, be beneficial to landowners without adversely affecting neighbors or the interests protected by Richmond's Zoning Regulations. It is the purpose of this section to allow for such increases subject to conditional use review under Section 5.6, as needed to authorize the modification or waiver of district front, side and rear yard setback and lot coverage requirements in accordance with the Act [§4414(8)].

**4.8.1 Applicability -** The DRB may issue conditional use approval for the expansion of any nonconforming structure substantially completed prior to April 1, 1969 (an "existing building"). If lawful additions were made to any existing building after April 1, 1969, the term "existing building" shall include the original building and such additions. The conditional use approval may allow expansion of an existing building to occur no closer than five (5) feet to any lot line or edge of a public or private right of way and increases in lot coverage as a result of the expansion by no more than 10% of the total ground area of the lot. (For example, if the lot is 8,000 square feet, conditional use approval could allow an increase of 800 square feet in lot coverage.)

**4.8.2 Selectboard Notification -** The Administrative Officer shall notify the Selectboard of applications to modify setbacks that are adjacent to land owned by the Town and Town rights-of-way whether held as a right-of-way or fee title, at the same time such application is referred to the DRB.

**4.8.3 Review Criteria -** Prior to issuing conditional use approval for the waiver or modification of setback and coverage requirements, the DRB must find that the proposed expansion:

a) is in compliance with conditional use criteria of these Zoning Regulations, including the general standards, specific standards and performance standards outlined under Section 5.6, and with state law, and
b) the structure must be found to be otherwise in compliance with these Zoning Regulations.

**4.8.4 Conditions of Approval -** The DRB may require design modifications, screening or other conditions to mitigate Undue Adverse Effects to adjoining properties or public rights-of-way.

## 4.9 Nonconforming Uses

A Nonconforming Use may continue to exist, subject to the following:

A Nonconforming Use shall not be changed to other than a permitted use. Any Nonconforming Use that ceases for 365 consecutive days shall not be permitted to resume, and intent to abandon the use shall be conclusively presumed for such non-use unless it qualifies under the "Adaptive Use" section (5.6.8) of these Zoning Regulations. If it can be shown that the usage has traditionally been intermittent, the historical rate will be used to assess abandonment and continued use.

Any increase or expansion of a Nonconforming Use may occur only after DRB approval. The DRB may approve increases in nonconforming uses that involve an increase of 25% or less in physical characteristics such as, but not limited to, square footage or traffic flow, after Conditional Use Review.

## 4.10 Noise

It shall be a requirement for any approval under these Zoning Regulations to comply with the following stated limits:

**4.10.1 Residential Noise**. Noise shall not exceed the following levels of intensity at the property line in the Agricultural/Residential, High Density Residential, Residential/Commercial and Mobile Home Park Districts:

| TIME PERIOD | One hour Average dBA | Instantaneous Maximum dBA |
|---|---|---|
| 7:00 AM to 11:00 PM | 70 | 80 |
| 11:00 PM to 7:00 AM | 50 | 60 |

**4.10.2 Commercial Noise.** Noise shall not exceed the following levels of intensity at the property line in the Gateway Commercial, Village Commercial, Commercial, and Industrial/Commercial Districts:

| TIME PERIOD | One hour Average dBA | Instantaneous Maximum dBA |
|---|---|---|
| 7:00 AM to 11:00 PM | 80 | 90 |
| 11:00 PM to 7:00 AM | 60 | 70 |

**4.10.3 Terms.** For purposes of this regulation, the following terms shall be defined as stated below:

a) Decibel - a unit measure of sound level;
b) Sound level - in decibels measured by a sound level meter, using "A" frequency weighting (expressed in dBA);
c) Average dBA - a sound level during a given period of time (e.g., one hour) found by the general rule of combination of sound levels. Also called equivalent sound level.

**4.10.4 Exemptions.** Noises associated with standard agricultural operations and usual and customary residential activities shall be exempt from this standard.

## 4.11 Exterior Lighting

**4.11.1 General Guidelines** - The Town of Richmond exterior lighting policy is designed to reduce the use of inappropriate and poorly designed or installed exterior lighting which causes unsafe and unpleasant viewing conditions. On the other hand, it is also recognized that some exterior lighting is appropriate and necessary. All Richmond property owners or Applicants are encouraged to utilize the following general guidelines when designing and installing or replacing existing exterior lighting fixtures:

- use the minimum light level needed for the task
- avoid competitive lighting, in which one source of lighting is increased in illumination to "outshine" a neighboring source
- light areas evenly and uniformly for better visibility
- consider the color of the light and limit the use of lighting that provides unnatural color.
- Lighting should not shine onto adjacent properties or above the horizontal plane, at the elevation of the light fixture.

**4.11.2 General Requirements** - It shall be a requirement for any municipal approval in all zoning districts, to mitigate Undue Adverse Effects and conserve energy, that the following requirements are met:

a) **Site Plan.** Submit a Site Plan proposal that includes all proposed exterior light fixtures:
   i. Specifications for all proposed lighting fixtures including photometric data designation as IESNA (the Illumination Engineers Society of North America) "cut-off" fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures such as height and location, and;
   ii. Analyses and iso-illuminance diagrams showing that the proposed installation conforms to the lighting standards in this Section.

b) **Illumination.** Whenever building elevations are submitted, show exterior fixtures and the portions of the walls to be illuminated.

c) **Sensors.** Lighting installations should include timers, dimmers, and/or sensors to reduce the overall energy consumption and eliminate unneeded lighting.

d) **Underground.** Electrical service to exterior lighting fixtures shall be underground unless the fixtures are mounted directly on utility poles.

e) **Height.** The mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation directly below the fixture to the bottom of the lighting fixture.

f) **Exemptions.** Lighting associated with normal and customary residential activities and holiday lighting, displayed within 45 days of the State recognized date of the holiday, shall be exempt from this standard.

**4.11.3 Parking Lot & Security Lighting**

a) **Parking Lots** - Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination on adjacent properties or Roads or Highways.
   i. All lighting fixtures serving parking lots shall be cut-off fixtures as defined by (IESNA).
   ii. Alternatives: If a proposal contains a particular "period" or architectural style, an alternative (other than required by this section) primary or supplemental lighting design or fixture may be approved if the following apply:
      One, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to a 150 watt incandescent bulb), when such fixtures are not "cut-off" fixtures as defined by the IESNA, and;
      Two, the mounting heights of such fixtures shall not exceed fifteen (15) ft.

b) **Security Lighting** - The purpose of and need for security lighting, i.e., lighting for safety of persons and property, is allowed when part of an overall lighting plan.
   i. All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination on other areas. In no case shall any lighting be directed above a horizontal plane through the lighting fixture.

c) **Security and Parking Area lighting standards** in the various districts are as shown in the following table:

| LIGHTING | A/R, HDR, and MHP | R/C, G, V/C and C | I/C |
|---|---|---|---|
| Mounting Height (Max.) *** | 20' | 20' | 25' |
| Minimum Illumination Level | no less than 0.2 fc | no less than 0.2 fc | no less than 0.3 fc |
| Uniformity Ratio * | 4:1 | 4:1 | 4:1 |
| Average Illumination Level on Vertical Surface | no more than 0.3 fc | no more than 0.5 fc | no more than 0.3 fc |
| Minimum CRI ** | 70 | 70 | 60 |

fc Foot Candles
* Uniformity ratio is the ratio of average illumination to minimum illumination
** CRI = Color Rendering Index.
*** Mounting height is the vertical distance between the surface being illuminated and the bottom of the lighting fixture.

**4.11.4 Illuminated Signs.** Illuminated signs shall meet the requirements set forth in the Signs section (5.7) of these Zoning Regulations.

**4.11.5 Roads or Highways Lighting.** Roads or Highways lighting shall meet the standards set forth in the Town's Public Works Specifications.

**4.11.6 Lighting of Gasoline Station Aprons and Canopies.** Lighting levels on gasoline station aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under the appropriate section of these Zoning Regulations shall be used for that purpose.

a) Areas on the apron away from the gasoline pump islands, used for parking or vehicle storage, shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this Section.
b) Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance is at least 1.0 foot-candle and no more than 2.0 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall not exceed 4:1.
c) Light fixtures mounted on canopies shall be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy.
d) As an alternative (or supplement) to recessed lights, indirect lighting may be used where light is reflected down from the bottom of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
e) Lights shall not be mounted on the top or sides of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

**4.11.7 Lighting of Building Facades and Roofs.** With the exception of structures having exceptional symbolic (i.e. churches and/or public buildings) or historic significance in the community, exterior building facades shall not be illuminated. When buildings having symbolic or historic significance are to be illuminated, a design for the illumination shall be approved by the DRB, after public hearing, and the following provisions shall be met:

a) The maximum illumination on any vertical surface or angular roof surface shall not exceed 2.5 foot-candles.
b) Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed towards adjacent Roads and Highways.
c) Lighting fixtures mounted on the building and designed to "wash" the facade with light are to be preferred.
d) To the extent practicable, lighting fixtures shall be directed downward (i.e. below the horizontal) rather than upward.

# 5. PERMITS AND APPROVALS

## 5.1 Applicability

No Land Development may be commenced in the Town of Richmond without a Zoning Permit issued by the Administrative Officer. No Zoning Permit may be issued by the Administrative Officer except in conformance with the Act (§§4448, 4449) and these Zoning Regulations. Also, no Zoning Permit shall be issued by the Administrative Officer for any use or structure that requires approval of the DRB or Selectboard until such approval has been obtained. A State of Vermont Wastewater System and Potable Water Supply Permit or demonstration of exemption must be presented by the Applicant before a Certificate of Occupancy will be issued. These Zoning Regulations shall not repeal, annul, or in any way impair any Zoning Permit which was previously issued and utilized for any completed project.

## 5.2 Application Process, Decisions and Appeals

### 5.2.1 Application, Fees, Reimbursement for Technical Review -

a) **Complete Application** - Applications submitted for review will be deemed complete by the Administrative Officer when all required material has been submitted and the permit fee has been paid. After the application is deemed complete, the Administrative Officer shall immediately refer it to the appropriate officer or the DRB for review, in accordance with the Act (§§4448, 4460).

b) **Fees, Reimbursements for Technical Review** - Accompanying each application shall be the required fee or fees as established by the Richmond Selectboard in accordance with the Act (§4440), payable to the municipality. Under no conditions shall such sum or any part thereof be refunded unless provided for under a separate section of these Zoning Regulations or other town ordinance. Any fee may be amended from time to time by the Selectboard and shall be posted in the Town Clerk's Office. The Administrative Officer or DRB may require an Applicant to pay for the reasonable costs of an independent technical review, by a consultant employed by such person or body, of an application, or portions therefore, subject to any procedures and standards established by the Richmond Selectboard, and the following:

   i. Administrative Officer: Upon receipt of an application, the Administrative Officer may arrange for independent technical review of the application or portions thereof.
   ii. DRB: The DRB, at any public hearing required under these Zoning Regulations in connection with an application, may vote to have an independent technical review of an application, to the extent specified by the DRB in its vote.
   iii. In the event a written report is obtained from the technical consultant, the Applicant shall forthwith be supplied with a copy.
   iv. The Applicant shall pay for the reasonable costs of an independent technical review authorized under this subsection 5.2.1(b), within thirty (30) days of invoice for the cost thereof.
   v. In the event the Town, Administrative Officer, or DRB is required to bring legal action to collect the amount specified in the invoice, the Applicant shall be responsible for the Administrative Officer's, or DRB's reasonable attorney's fees, and other costs of collection.
   vi. Notwithstanding anything in Section 5.3.5 , a certificate of occupancy shall not be issued to the Applicant, its successors and assigns, for the Land Development proposed in the application, or any part, until the invoice issued under subsection 5.2.1(b) is paid in full.

c) **Forms** – An application for a Zoning Permit shall be filed with the Administrative Officer on form(s) provided for those purposes.
   Application for Zoning Permit - The Administrative Officer shall require that every application for a Zoning Permit be accompanied by one (1) or more copies of a site plan showing the following in sufficient detail to enable the Administrative Officer to ascertain whether the proposal is in conformance with these Zoning Regulations.

   i. The actual shape, proportion and dimensions of the lot to be built upon and satisfactory evidence that actual corners of the lot are known and are established on the ground.
   ii. The shape, size and location of all buildings or other structures already existing on the lot.

iii. The existing and intended uses and areas of use of the lot and all buildings and other structures.
iv. The dimensions of all yards and such other information concerning the parcel or adjoining parcels as may be essential for determining whether the provisions of these Zoning Regulations are being observed regarding yards, areas, off-Roads or Highways parking and other such requirements or standards.
v. Any other information as may be required by the Administrative Officer.
vi. The location of the house, septic area, driveway and well, when specified in the subdivision approval, must be flagged and inspected as part of the permit application.
vii. For an application in which any portion of the parcel is within the Flood Hazard Overlay District, the following additional information must be provided, per Section 6.8.
    1. A site plan that depicts the proposed development, all water bodies, FEMA Special Flood Hazard Areas, floodways, Fluvial Erosion Hazard Zone, Base Flood Elevation information, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
    2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the Town of Richmond permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer prior to the issuance of a Certificate of Occupancy.

d) **State Permits** - All required state permits shall be a part of and made a condition of each local permit. Unless otherwise required, state permits may be obtained after local permits. In no case shall a project or use commence without all necessary state and local permits.

**5.2.2 Decision on Application by the Administrative Officer** - The Administrative Officer shall act on a permit application in accordance with the following. If the Administrative Officer fails to act on a complete application within 30 days, a permit shall be deemed approved and shall be issued by the Administrative Officer on the 31st day, provided, however, that for a "deemed approval" to be effective the Applicant must seek DRB affirmation of the applicability of this remedy by direct appeal to the DRB of the Administrative Officer's decision or lack thereof, and if denied by the DRB by direct appeal to the Environmental Court.

a) A Zoning Permit may be issued by the Administrative Officer, if, in the opinion of the Administrative Officer, no review by the DRB is required and the proposed Land Development as set forth in the application is in conformity with the provisions of these Zoning Regulations and all other ordinances of the municipality. .
b) If, in the opinion of the Administrative Officer, the proposal set forth in such application is incomplete, the Administrative Officer shall issue a written determination and return the application with any fees to the Applicant with a list of those items needed to complete the application.
c) If such application is complete and can be reviewed by the Administrative Officer and is found to be not in conformance with the provision of these Zoning Regulations and all other ordinances, the Administrative Officer shall deny the application. If an application for a permit is denied, the Administrative Officer shall state in writing on the application the reason for such denial.
d) If an application needs to be reviewed by the DRB and the Administrative Officer deems the application complete, the Administrative Officer shall promptly refer the application to the DRB, in writing with the date of referral noted,
e) If the application is for proposed Land Development located within the Flood Hazard Overlay District, the Administrative Officer shall promptly refer the completed application to the Agency of Natural Resources in accordance with Section 6.8.12.
f) There is no refund of the application fee once a decision has been made or hearing warned by the Town.

**5.2.3 Appeals** - Any act of the Administrative Officer under this section, including the approval or denial of a Zoning Permit, or the issuance of a written determination, may be appealed to the DRB as provided in

Section 8.4. Any Zoning Permit issued by the Administrative Officer shall include a statement of the time within which an appeal may be taken.

## 5.3 Process after Permit is Issued

### 5.3.1 Procedure after Issuance -

a) Within 3 working days following the issuance of a Zoning Permit by the Administrative Officer, the Administrative Officer shall
post a copy of the permit in the Town Clerk's Office. The permit shall remain posted until 15 days from the date of issuance and shall be available for public review during the regular business hours of the Town Clerk's Office.
b) Each permit issued under this section shall require posting of a notice of permit on a form provided by the Town, to be displayed in a prominent site on the lot upon which the Land Development is occurring, within view from the nearest public right-of-way, and shall remain posted until all work is complete.
c) The Administrative Officer shall have the right to inspect the work during the effective period of the permit, from permit issuance until a Certificate of Occupancy is issued. Such inspections shall be done at reasonable times during the normal workday.
d) The Zoning Permit shall be delivered by the Administrative Officer to the Town Clerk for recording in the land records of the Town in accordance with Section 8.5. The Administrative Officer shall deliver a copy of the permit to the Listers once it has been recorded by the Town Clerk

### 5.3.2 Effective and Expiration Dates -

a) A Zoning Permit which the Administrative Officer is empowered to issue shall not take effect until 15 days after issuance by the Administrative Officer or, in the event that a notice of appeal is properly filed in accordance with Section 8.4, such permit shall not take effect until final adjudication of the appeal, as provided in §4449 of the Act...
b) A Zoning Permit shall expire 24 months after the effective date, provided, however, that a Zoning Permit shall not expire if the Administrative Officer determines that, viewed as a whole, the work, time and expenditures invested in the project for which the Zoning Permit was issued demonstrate a good faith intent to presently commence upon the permitted use. The Administrative Officer may extend the permit for good cause for an additional 12 months, provided the request is made prior to the expiration date. Projects phased over several years by the permitting authority of the Town of Richmond shall have separate expiration dates attached to each phase, and the provisions of this subparagraph (b) as to whether expiration has occurred shall apply to each separate expiration date.

**5.3.3 Misrepresentations** - Any Zoning Permit issued based upon material inaccuracies or misrepresentations in an application or in any supporting documents to an application shall be null and void and shall not be construed as waiving any provision of these Zoning Regulations.

**5.3.4 Amendments to Permits Already Issued by the Administrative Officer** - Amendments to the conditions of any permit already issued by the Town of Richmond may be made only by making application to the Administrative Officer for a new permit. Such application for a new permit shall be limited in scope to the changes from the permit already issued. Review of the amendment application by the DRB shall be required if the original permit was approved by the DRB.

**5.3.5 Certificates of Occupancy** –
A person shall not use or permit the use or occupancy of any land or structure, or part thereof created, erected, changed, converted, or wholly or partly altered in its use or structure until a Certificate of Occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these Zoning Regulations and the conditions of approval, in accordance with the Act (§4449), and that all violations of town land use permits, Bylaws and regulations have been cured as to the property involved and all related fines paid.

a) Notwithstanding the preceding, a Certificate of Occupancy shall not be required for a one story building, without a basement or cellar, which:
   i. does not have more than six hundred (600) square feet of Gross Floor Area, and
   ii. is an Accessory Structure to a Dwelling, or a temporary building used in connection with a work site while work is ongoing (other than an accessory dwelling under Section 5.9), and
   iii. does not contain any water facilities or sewage facilities.

b) Certificates of Occupancy shall be delivered by the Administrative Officer to the Town Clerk for recording in the land records of the Town in accordance with Section 8.5.

## 5.4 Subdivision Review

The division of a lot into two or more lots shall require subdivision approval under the Town of Richmond Subdivision Regulations, except for the following which shall require a Zoning Permit issued by the Administrative Officer:

a) those lots created under Section 2.6, Administratively Created Lots, of these Zoning Regulations; and
b) boundary line adjustments between two adjoining landowners, which do not create a new lot, but which shall require approval under Section 5.8, Boundary Adjustments, of these Zoning Regulations.

## 5.5 Site Plan Review

**5.5.1 Applicability** - Site Plan review by the DRB shall be required for Land Development that does not require Conditional Use Review (Section 5.6), except for the following uses, in accordance with the Act (§4416):

a) Accepted agricultural and silvicultural practices (including Farm Structures).
b) Single and two-family dwellings and their related accessory structures.
c) Home occupations.
d) Group homes.
e) Child Care Homes serving a maximum of six children full-time and four children part-time.
f) Land Development requiring Public Service Board (Section 248) approval.

The table at the beginning of Section 3 provides a summary of uses requiring Site Plan review.

**5.5.2 Application Requirements for Site Plan Review** -

a) Name and address of owner(s) of the parcel.
b) Names and addresses of all abutters, including those across contiguous Road(s) or Highway(s).
c) Unless waived by the DRB for good cause, a site plan shall be prepared by a registered surveyor, professional planner, engineer, architect, or landscape planner. In all events, the site plan shall be drawn to scale, and submitted with written supporting data, showing the following:
   i. **Existing features**: contours, structures, utility easements, rights-of-way, deed restrictions, significant landscape features, Roads or Highways, surveyed boundaries, dimensions, total lot size;
   ii. **Proposed Land Development**: land use areas, structures, driveways, curb cuts, parking and loading areas, traffic circulation, pedestrian walkways, outside display areas, signs, site grading, landscaping, plantings and screening, setbacks and buffer strips, outside lighting, equipment and waste storage areas and sewage disposal areas.
d) Information as to the time period or phasing for completion of the project.
e) The DRB may also require the following submittals:
   i. **Security** as provided in Section 8.2.5.
   ii. **Formal traffic study** if a substantial alteration in public traffic flow is anticipated or a large-scale parking area is planned. This may include analyses of traffic volumes, average daily trips, turning movements, patterns of ingress and egress, levels of service on roadways and at intersections, and modes of traffic control.

**5.5.3 Conditions of Approval for Site Plan Review** - The DRB may impose conditions and safeguards upon the approval of a site plan with respect to features authorized by the Act (§4416), as amended.

Maps, data, studies, and other information will be requested as needed by the DRB for site plan review. Conditions of approval for site plan review include, but are not limited to, the following:

a) **Traffic** - Conditions and safeguards with respect to adequacy of parking, traffic access, and circulation for pedestrians and vehicles, including, but not limited to:
   i. **Lanes** - Installation of speed change lanes or frontage roads.
   ii. **Curb Cuts** - Limitations on access driveways, or requirement that these be shared with adjacent properties to reduce curb cuts and provide for safe ingress and egress.
   iii. **Pedestrians** - Provision for pedestrian traffic, with sidewalks and other walkways clearly separated from vehicular traffic and with appropriately designed road-crossing areas.
   iv. **Roads** - Roads within the site connecting to roads outside the site that will bear substantial traffic loads being constructed to the Public Works Specifications.
   v. **Parking** - Parking must be located to the rear of buildings, or at the side well-screened from view.
   vi. **Trails** - Trails for non-motorized transportation.
   vii. **Lighting** - Provision for lighting adequate to promote traffic and pedestrian safety, while minimizing negative impact on neighboring residences.

b) **Landscaping and Screening** - Conditions and safeguards with respect to landscaping and screening including, but not limited to:
   i. **Provision for landscaping** that will preserve the character of the existing neighborhood. This may include curbside shade trees.
   ii. **Provision of a buffer zone** that shall include vegetative screening to conceal outdoor storage or display areas, parking lots, or loading areas, or other outdoor commercial or industrial uses from neighboring residences.
   iii. **Requirements that vegetation** be indigenous to the area, sight-impervious, large enough to do well, and planted intervals in keeping with other neighborhood foliage.
   iv. **Retention** of currently existing site vegetation.
   v. **Interim fencing** being required while vegetation is growing to appropriate size.
   vi. **Provision for the care** and maintenance of plantings, including removal of dead or diseased trees or shrubs.
   vii. **Minimum Landscaping Costs.**
   The minimum direct landscaping cost shall be at least equal to the total project construction cost multiplied by a certain percentage per the below schedule:

| Construction Cost | Percentage |
|---|---|
| $0 -$250,000 | 3% |
| Next $250,000 | 2% |
| Excess over $500,000 | 1% |

In evaluating landscaping requirements, the DRB may grant some credit for existing trees, existing site features or for alternative improvements, other than tree planting, as long as the objectives of this section are met.

   viii. **Front Yards.** In the case of non-residential uses, the required front yard shall be suitably landscaped and maintained in good appearance.
   ix. **Buffer Strips.** DRB may also require additional landscaping above and beyond the formula for the purpose of adding a buffer strip along I-89 to properly screen development from the highway.
   x. **Additional Screening.** The DRB may require additional plantings or attractive solid fencing, above the normal landscaping requirement, whenever it determines a particular site warrants such additional landscaping, such as to adequately screen two adjacent dissimilar uses from each other, or to improve the appearance of a property which is covered excessively with pavement or structures or is otherwise insufficiently landscaped. All outdoor lighting or parking from public or commercial uses shall be screened from the view of the ground floor of adjacent residential buildings. Auto service stations shall be screened in the same manner from all abutting properties. Recreational vehicle parking areas shall be screened with evergreen trees and shrubs and such landscaping plan shall be part of the application.
   xi. **Exterior Lighting.** Exterior lighting shall meet the requirements of Section 4.11 of these Zoning Regulations.

xii. **Site Restoration.** The DRB may require any necessary grading or seeding to restore the condition of any portion of a site that is disturbed during construction.

c) **Renewable Energy Resources** - Conditions and safeguards for the protection and the utilization of renewable energy resources.

d) **Signs** – Size, location, and design.

**5.5.4 Site Plan Review Process** – The Site Plan Review process shall be conducted in accordance with the requirements contained in Section 8.2.

**5.5.5 Site Plan Amendments** - The Administrative Officer shall determine if proposed changes to an approved site plan are minor or major.

a) **Minor Amendments**—those which do not involve changes to approved curb cuts, internal traffic or pedestrian circulation patterns, landscaping or screening, may be approved by the Administrative Officer.

b) **Major Amendments**—All amendments other than Minor Amendments shall require the submittal of a revised site plan to the DRB for review.

## 5.6 Conditional Use Review

A use requiring conditional use approval by the DRB shall comply with the following general standards and specific standards, and all other applicable standards and requirements of these Zoning Regulations.

**5.6.1 General Standards** - A proposed use shall not result in an undue adverse effect upon:

a) The capacity of existing or planned community facilities;

b) The character of the area affected, as defined by the purpose or purposes of the zoning district in which the project is located and with specifically stated policies and standards of the Richmond Town Plan;

c) Traffic on roads and highways in the vicinity;

d) Bylaws and ordinances then in effect; and,

e) The utilization of renewable energy sources.

**5.6.2 Specific Standards** - Conditional uses shall comply with the following specific standards:

a) Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot shall not be generated.

b) There shall be no outside displays except those that are brought indoors at the end of the business hours and are the actual product of the business.

c) Outside storage of goods, parts, supplies, vehicles machinery and other personal property shall be appropriate to the neighborhood and shall not impair safety.

d) Applicable state permits for water supply and sewage disposal shall have been obtained, and any other applicable state permits, before the use commences.

e) The development is proposed over a reasonable time period in order that the general and specific standards for conditional uses may be met.

f) In determining the appropriateness of the use in the Zoning District, the DRB shall consider the scale of the proposal in relation to the scale of existing uses and structures.

g) No fire, explosive, or safety hazard shall be permitted that, in the judgment of the DRB, after consideration of the advice of Richmond fire fighting officials, significantly endangers other property owners or emergency personnel.

h) The development shall not result in an Undue Adverse Effect on state- or community-owned and operated institutions and facilities.

i) Existing water supplies and the quality of ground and surface water resources shall not be adversely affected.

j) The proposed Land Development shall not have an undue adverse effect on an Historic Site or rare or irreplaceable natural areas. Proposed structures should take advantage of existing slopes and vegetation to provide screening for the project.

k) Any other standards, such as natural landscape and “character of the neighborhood” standards, as indicated for specific districts shall also be applied.

The DRB may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of these Zoning Regulations and 24 V.S.A. Chapter 117.

**5.6.3 Performance Standards** - In addition to the specific standards listed under Section 5.6.2 for conditional use approval, all conditional uses shall also meet the following performance standards prior to issuance of conditional use approval:

a) Sounds resulting from the activity shall meet the requirements of Section 4.10, *Noise,* of these Zoning Regulations.
b) Exterior lighting of any kind shall meet the requirements of Section 4.11, *Exterior Lighting,* of these Zoning Regulations.
c) No vibration resulting from the activities shall be measurable at the lot lines.
d) No odors resulting from the activities shall be discernible at the lot lines.
e) Smoke emissions shall not exceed number two (2) on the Ringelman Chart.
f) No dust, dirt or fly-ash shall exceed two-tenth (0.2) grain per cubic foot of flue gas at a stack temperature of five hundred (500) degrees Fahrenheit.
g) No noxious gases resulting from the activity shall be discernible at the lot lines.
h) Industrial wastes shall be so stored and removed from the lot in manners as to not be reasonably objectionable to adjacent lots or create a public nuisance, or pollute the environment. These shall be stored within a structure.
i) All uses shall comply with all Federal and State laws and regulations for the use, storage, hauling and disposal of hazardous materials and wastes.
j) No heat shall be discernible at the lot lines.

**5.6.4 Site Plan Review Standards** - In order to expedite the review process, conditional uses are not subject to separate site plan review under Section 5.5, however, all conditional uses shall also meet site plan review standards and conditions as set forth under Section 5.5.3 prior to the issuance of conditional use approval.

**5.6.5 Conditional Use Review Process** - The DRB shall hold a public hearing on the application, warned in accordance with Section 8.2.3, and shall provide opportunity for any person wishing to achieve status as an Interested Person to demonstrate that they meet the definition of an Interested Person under the Act (24 V.S.A. §4465) and these Zoning Regulations for purposes of participation and appeal. The DRB shall act to approve, approve with conditions, or deny the application and issue a decision as provided in Section 8.2.5.

**5.6.6 Extraction of Earth Resources -**

a) **Applicability** - In the A/R, HDR, R/C, G, C and I/C Zoning Districts, the removal of loam, gravel, stone, sand, fill, sod or any other earth resource, with the exceptions listed in Section 5.6.6 (e) below, shall be a conditional use to be reviewed and approved by the DRB.
b) **Removal or filling** of earth resources; (i) within 50 feet of wetlands or a publicly owned body of water or a navigable watercourse, or (ii) within a buffer zone under Section 5.6.6 (c)(iv) below, shall not be permitted.
c) **Submittal Requirements** -
   i. Names and addresses of all abutters, including those across any contiguous public or private Road(s) or Highway(s).
   ii. A current site plan showing existing grades; depth to water table in proposed area of excavation; off-site drainage patterns and existing easements crossing the lot.
   iii. A restoration plan showing proposed finished grades; cover vegetation and trees to be planted.
   iv. A management plan that includes: provisions for drainage; erosion and dust control methods; traffic and noise control; protection of surface water including a 25 ft. to 100 ft. buffer zone between operation and streams, and a 25 ft. to 100 ft. buffer zone between the operation and any neighboring lot line. The exact width of the buffer zone required will be determined by the proximity to neighbors and any other factors the DRB considers relevant.
d) **Conditions of Approval** - The DRB may impose any of, but not limited to, the following conditions:
   i. Per Section 8.2.5, security to assure proper restoration of the site.

ii. Limitation of hours of operation if an abutting residential neighborhood shall be substantially negatively affected by noise, dust, or vibration.
iii. Noise limitations as defined in Section 4.10, *Noise.*
iv. Limitations on size of trucks, number of trips/day.
v. A traffic study by a qualified traffic expert if substantial concern exists regarding traffic.
vi. Requirement for loads to be covered.
vii. Limitation of duration of permit or requirement for future review by the DRB.
viii. Isolation distances from sources of drinking water.
ix. Lighting requirements or limitations as established in Section 4.11*, Exterior Lighting*, of these Zoning Regulations.

e) **Protections** -
i. Existing pits in operation on the Effective Date of these Zoning Regulations may continue in operation at their current levels of operation as of the Effective Date of these Zoning Regulations. No increase over such current levels shall occur without issuance of conditional use approval by the DRB.
ii. Equipment incidental to the operation of a gravel pit or other earth resource extraction operation, and used only to crush, sort, or otherwise process materials removed from the lot where the equipment is located, shall be allowed, provided that installation and use of such equipment meets all applicable general and specific conditional use standards and other applicable standards and requirements of these Zoning Regulations and all conditions imposed by the DRB.

f) **Exceptions** - This section shall not apply to the removal of earth resources incidental to the construction of a building or its access on the same lot, normal agricultural or forestry operations, public road construction, or the operation of a cemetery, to the extent reasonably necessary for such purpose.

**5.6.7 Cottage Industries that are not Home Occupations -**

This section applies to Cottage Industries that are not Home Occupations (Section 5.11, and defined in Section 7), since Home Occupations do not require conditional use review.

a) **Conditional use** - Cottage Industries may be allowed in the A/R, HDR, R/C and G Districts after conditional use approval by the DRB using the following criteria in c) and d) below for review in addition to those in 5.6, Conditional Use Review and all other zoning requirements.

b) **Renewal** - A new conditional use approval shall be required before a Cottage Industry is expanded or modified.

c) **Requirements** - All Cottage Industries shall comply with the following provisions in addition to the conditional use provisions in Section 5.6.:
i. All activities of a Cottage Industry must be located on the same Lot for which the permit is granted. Any Cottage Industry activity on a separate lot shall be considered as a separate Cottage Industry activity and must receive a permit.
ii. The business use is clearly secondary to the agricultural or residential use of the lot and the business owner shall reside on the lot.
iii. The business use shall not necessitate any change in the outside appearance of the structures related to the cottage industry on the lot other than the addition of one non-illuminated sign that meets the requirements of Section 5.7, Signs, of these Zoning Regulations.
iv. The residents of the dwelling unit on the lot plus no more than three full-time equivalent employees may be employed.
v. The business use shall not generate more than twice the number of average daily trips that would be generated by the dwelling according to “Trip Generation - Seventh Edition - 2003” Institute of Traffic Engineers, or its equivalent, or any subsequent and most recent publication thereof.
vi. No more than 6 additional parking spaces shall be created. All parking must be adequately screened and located on the lot and must be in compliance with the parking requirements in Section 6.1. On-premise parking shall be sufficient for all employees and residents.
vii. There shall be no storage of hazardous waste or materials, and fuel storage shall be limited to that needed for the operation of the vehicles of the business.
viii. The property shall be landscaped and the business use screened, in such a manner that the Cottage Industry shall be visually compatible with the neighboring lots and uses. In addition, any outside storage of materials, including building or construction materials, unregistered vehicles or

heavy equipment, firewood or lumber for sale, must be completely screened year-round from the road and from neighboring lots.

ix. The Cottage Industry shall be provided with a vegetated (grass, trees, etc.) buffer zone between the structure housing the business and any lot line.

x. There shall be no safety hazards to neighborhood children, including those children boarding or disembarking from the school bus.

xi. Sound shall not exceed the limits of Section 4.10, Noise of these Zoning Regulations.

xii. Smoke, vibrations, dust, odors, heat and glare produced by the business shall not be excessive.

xiii. Delivery truck traffic may be limited to 2 trucks per day, if it is deemed that such traffic shall adversely affect the character of the neighborhood.

d) **Character of the Neighborhood** - Suburban neighborhoods with closely spaced residences, with few pre-existing business uses, are less suitable locations for cottage industries than rural residential neighborhoods, which have more widely-spaced, larger lots that traditionally have been used for such home-based businesses such as farming and forestry. The DRB may determine that a neighborhood or location is unsuitable for a cottage industry and may prohibit such industry on the basis of having an undue adverse effect on the character of the neighborhood.

### 5.6.8 Adaptive Use of Existing Structures -

**Purpose** - The purpose of this section is to enable the continued viability of certain old structures in the Town of Richmond which have outlived their original function by allowing additional uses within the current dimensions of such structures, subject to conditional use review and approval. Structures which shall be considered appropriate for adaptive use include any structure which: (i) has historical or architectural significance to the Town, and (ii) has a minimum of 4,000 square feet, and (iii) is no less than fifty (50) years old.

a) **Additional Uses** - Structures determined to be appropriate for adaptive use may be put to the following additional uses, or combination of uses, in any Zoning District provided conditional use approval is obtained from the DRB:

i. Two-family or multi-family dwelling. The minimum lot area per dwelling unit of the Zoning District in which the building is situated shall apply; if the building is in a Zoning District where two-family or multi-family dwellings are not normally allowed, the HDR minimum lot area per dwelling unit requirements shall apply.

ii. Uses which involve historic materials or relate to the attraction provided by an historic atmosphere, such as museums, local arts and crafts shops, antique shops, woodworking, furniture repair, or restaurants.

iii. Enterprises whose principal use is the sale of agricultural products, such as greenhouses, orchards, nurseries, food co-ops, or farm products stores.

iv. Enterprises whose principal use is the sale of products produced in Vermont.

v. Professional offices.

vi. Community resources such as banks, churches, schools, or libraries.

vii. Storage uses such as for boats or furniture.

The foregoing list is meant to suggest appropriate uses not otherwise allowed and is not intended to be all inclusive. Nevertheless, uses such as bowling alleys, drive-in theaters, bars, motels, gas stations, fuel or chemical storage and distribution, heavy industry or heavy manufacturing and other similar uses shall be considered incompatible with the structures in question.

b) **Additional Requirements** - The DRB may grant conditional use approval for prospective uses of structures in order that owners may renovate for approval for specific businesses or tenants. Evidence shall be provided that the project is in accordance with the guidelines set forth in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1983) (36CFR67) in terms of the rehabilitation of the building and its site.

## 5.7 Signs

**Purpose** - It is the purpose of this section to limit the use of signs to those purposes which serve the public interest. No sign, billboard or exterior graphic display shall be permitted except as provided in this section.

**5.7.1 Signs Which Do Not Require a Permit** - The following signs are allowed in any district without a Zoning Permit. No other signs shall be permitted unless a Zoning Permit is issued by the Administrative Officer. Any sign installed or maintained pursuant to this Section shall be located outside the boundaries of all public Road or Highway rights-of-way, except as provided in d) and f), below.

a) One free-standing, on-premise, non-illuminated sign on a lot, which sign shall not exceed four square feet per face and shall be limited to identifying a private residence or a home occupation. The sign or supports shall not exceed six (6) feet in height above the surface of the ground.
b) One free-standing, on-premise, non-illuminated sign on a lot, which sign shall not exceed two square feet per face and shall be limited to the direction, instruction or convenience of the public (i.e. signs identifying restrooms, freight entrances, posted areas, danger areas, etc.).
c) One non-illuminated sign on a lot, which sign shall not exceed six square feet per face and shall be limited to the advertising of agricultural products grown on-premise.
d) Non-illuminated signs to be maintained for not more than two weeks, that identify fairs, expositions, auctions, campaign drives unrelated to elections, or other events of a civic, philanthropic or religious nature. For any sign to be located within public Road or Highway rights-of-way including public sidewalks, either the VT Agency of Transportation or the Richmond Selectboard must issue written approval, with any attached conditions, prior to placement of the sign.
e) Signs for the direction of the public on privately owned or non-profit recreation land. These signs will not exceed two (2) square feet per face.
f) One non-illuminated sign per lot or storefront on a public right-of-way with a maximum of 6 square feet per face supported by 4 posts, hinged at one end to form a “sandwich board” sign. The posts shall not count toward total square footage and the sign shall be removed when the business or activity is not in operation. If the sign is located within a State or municipal right-of-way, including public sidewalks, either the VT Agency of Transportation or the Richmond Selectboard must issue written approval, with any attached conditions, prior to placement of the sign.
g) Non-illuminated political signs, including election campaign signs.

**5.7.2 General Restrictions on all Permitted Signs** - All signs other than those specified above in Section 5.7.1 shall require a Zoning Permit from the Administrative Officer. Permitted signs shall conform to the requirements listed in this section:

a) No sign shall prevent a clear and unobstructed view of official signs or vehicular traffic.
b) Indirectly lighted signs may be lighted with constant lighting provided the lighting shall not be directed at neighboring properties or public ways and that the intensity shall not adversely affect the neighborhood or Roads and Highways, especially the drivers of vehicles. The light source shall not be visible from adjacent properties or roads, and the average level of illumination on the sign shall not exceed 3.0 foot-candles and the uniformity ratio shall not exceed 2:1.
c) No sign shall be illuminated during hours when the premises are not open for business.
d) No signs shall contain string lighting, pennants, moving parts or similar attention gathering devices nor may they contain or support any device capable of emitting noise. No sign shall be illuminated by neon, flashing, moving, intermittent or any other internally generated light.
e) No sign shall be erected, attached, or maintained upon any tree or drawn or painted on any rock or other natural feature or upon any utility pole or town sign post.
f) No sign shall be erected which is not on the lot where the activity served by the sign is located. If a lot does not have frontage on a public Road or Highway and is accessed by a private right of way, the interior lot owner may obtain a Zoning Permit for locating a sign in the private access right-of-way to the interior lot, provided that such private access right-of-way is broad enough to allow a sign.
g) The height of a free-standing sign shall not be more than ten (10) feet.
h) No sign which is attached to a building shall extend above its roof line.
i) No sign may be so designed, erected, illuminated, operated or maintained and be in such a location that it conflicts with or detracts from the effectiveness of an official traffic light or sign or constitute a menace to traffic safety. No sign shall be placed that resembles any official marker erected by a

government agency or display such words as “Stop” or “Danger”. No Zoning Permit shall be issued for a sign to be located within the right-of-way of a public or private Road or Highway.

j) All signs hereafter constructed, maintained, painted or otherwise established, moved, altered, changed or used in any Zoning District shall comply with the requirements of the Zoning District in which the sign is located, including the dimensional requirements for structures, except as otherwise specifically provided, and also shall comply with the following criteria:
   i. The lot frontage or width of the structure used as the basis for determining permitted sign area for one building or use shall not be used again as the basis for determining the permitted sign area for another structure or use.
   ii. On corner structures, the longer front of the structure may be used to determine the maximum sign dimension.
   iii. For purposes of signs, only one (1) side of the structure facing a Road or Highway shall be considered to be the front of the structure.
   iv. For structures which house more than one (1) business, the front width of each business unit shall be used to determine the maximum sign area for the business.
   v. Sign regulations shall not apply to official Federal, State, or Town signs, including traffic signs, which are erected and intended for public information, direction, safety or control purposes.

k) No sign shall be erected upon or applied to any roof, except religious symbols unaccompanied by lettering, when applied to the cornice, tower or spire of a place of worship.

**5.7.3 Signs - A/R, HDR, R/C and MHP Zoning Districts** - In the Agricultural/Residential District, High Density Residential District, Residential/ Commercial District and Mobile Home Park District, one sign (either free-standing, wall, or projecting) per lot shall be permitted upon issuance of a Zoning Permit by the Administrative Officer, provided such signs meet the following requirements:

a) **Free-standing Signs** - The free-standing sign shall be located outside of any public or private Road or Highway right-of-way, and shall not exceed 12 square feet on each of two faces. If the sign does not utilize one or more of the following geometric forms; circle, square, rectangle or ellipse, then the DRB shall review the request as a conditional use review.

b) **Wall Signs** - The wall sign shall be attached horizontally to and not extending perpendicularly from a wall of the principal structure and shall not exceed in area ten (10) percent of the gross surface area of the facade to which it is mounted, or twenty-five (25) square feet, whichever is less. A wall sign is permitted only for purposes of identifying the name of the resident, the title or nature of the person conducting a permitted home occupation or business, or the name of building and seller or agent.

c) **Projecting Signs** - The projecting sign shall be attached to, and extending perpendicularly from, a wall of a principal structure and shall not exceed 10 square feet on each of two faces and shall nor project out more than three (3) feet from the front face of the primary structure.

d) **Roof Signs** - No signs shall be erected upon or applied to any roof, except religious symbols, unaccompanied by lettering when applied to the cornice, tower or spire of a place of worship.

**5.7.4 Signs - C, G, V/C and I/C Zoning Districts** - In the Gateway, Village/Commercial, Commercial, and Industrial/Commercial Zoning Districts, one sign (either free-standing, wall, or projecting) per lot shall be permitted upon issuance of a Zoning Permit by the Administrative Officer, provided such signs meet the following requirements:

a) **Free-Standing signs** - The free-standing sign shall be located outside of any public or private Road or Highway right-of-way and shall not exceed 24 square feet on each of two faces. If the sign does not utilize one or more of the following geometric forms; circle, square, rectangle or ellipse, then the DRB shall review the request as a conditional use review.

b) **Wall Signs** - The wall sign shall be attached horizontally to, and not extending perpendicularly from, the wall of a principal structure, and shall not exceed the following size limitations:
   i) Signs with a total surface area not to exceed one (1) square foot of sign for each linear foot of the side of the structure in which the use is contained; however, the total surface area of any sign/s shall not exceed fifty (50) square feet.

c) **Projecting Signs** - The projecting sign shall be attached to and extending perpendicularly from a wall of a principal structure and shall not project out more than five (5) feet from the front wall of the building. The maximum square footage of a projecting sign shall be no greater than twenty-five

percent (25%) of the linear footage of the front width of the structure on which the sign shall be attached with a maximum of twenty (20) square feet.

d) **Locator Signs for Multiple Uses** - For a lot comprising two (2) or more uses and in addition to the sign allowed under this subsection, 5.7.4, each individual use shall be allowed one sign, not exceeding ten (10) square feet which is either a wall sign or projecting sign. Except for maximum square footage, these signs shall meet the above design requirements. The wall or projecting sign must be attached to the exterior wall of the side of the structure in which the use is contained.

**5.7.5 Directory Signs -** Directory signs may be allowed in two locations: at the intersection of Bridge Street and Railroad Street and at the intersection of Bridge Street and Jolina Court. The directory signs may only advertise businesses or organizations on Railroad Street or Jolina Court. The following standards apply to these directory signs.

a) One Directory sign per street.
b) A Directory Sign is a free-standing sign
c) "Railroad Street" or "Jolina Court" street name may be placed at the top of the sign – maximum of 1 foot high and a total square footage of 2 feet. This street name does not count toward the maximum size of the directory sign.
d) The directory sign may include the name and logo of each business
e) The maximum size of the directory sign shall be 5 feet wide and 6 feet tall (30 square feet)
f) The directory sign must have a vertical orientation (i.e., be taller than wide)
g) The maximum height of the directory sign is 10 feet including the street name, per c). above, with the lowest panel a minimum of 3 feet from the ground.
h) Individual letters (words) may not exceed 8" in height.
i) Individual logos for each business or organization may not exceed 1.5 square feet
j) The sign is divided as follows with six 1-foot sections – 5 feet total width
    i. Anchor (maximum of 2 anchors) – maximum of two 1-foot sections per anchor
    ii. If there are 2 anchor signs, the two additional 1-foot sections may be divided into a maximum of 4 segments
    iii. If only one anchor is on the sign, the four additional 1-foot sections may be divided into a maximum of 8 segments
    iv. If there are no anchor signs, the 6 1-foot sections may be divided into a maximum of 12 segments
k) Panels may be added and removed as needed. There is no minimum number of panels needed for the directory sign, however, there cannot be only one panel (anchor or non-anchor) on the sign
l) Similar/compatible color schemes must be used for the directory sign
m) The directory sign is not included in the computation of the permissible sign area, allowed per lot, per section 5.7.4.

**5.7.6 Maintenance** - All signs shall be well maintained.

a) **Sign Removal** - Any sign which advertises a business, product or service no longer available on the lot shall be removed. Any sign which is deemed to be structurally unsafe by the Administrative Officer shall be removed or repaired by its owner or permittee. Removal or repair shall be completed within thirty (30) days of notification by the Administrative Officer. If the owner or permittee fails to remove or repair the sign within the specified period, the Administrative Officer may cause the sign to be removed at the owner's expense.

**5.7.7 Nonconforming Signs** - A sign which does not comply to these Zoning Regulations which is lawfully in use when these Zoning Regulations become effective may continue in use but, shall be subject to the provisions of Sections 4.7 and 4.9 of these Zoning Regulations.

**5.7.8 Non-commercial Content** - Notwithstanding anything else in this Section 5.7, any sign authorized by this section, and requiring a Zoning Permit, may display non-commercial content in lieu of any otherwise permitted content.

## 5.8 Boundary Adjustments

Boundary adjustments may be made by and between only two adjoining landowners upon issuance of a Zoning Permit by the Administrative Officer. A Zoning Permit for boundary adjustments may be appealed to the DRB under Section 8.4, and shall be recorded in the land records of the town in accordance with Section 8.5. Prior to issuance of a Zoning Permit the following conditions shall be met:

**5.8.1 No New Lots** - No additional lot is created after the adjustment of the boundary lines.

**5.8.2 Only Two Lots** - Only two lots may be involved in any one boundary line adjustment.

**5.8.3 Plan Required** - A clear and accurate plan of the lots and the proposed boundary adjustment shall be submitted. The plan does not need to be a survey but must have accurate field measurements, except if the Administrative Officer deems such survey necessary. The plan shall be in a form suitable for recording.

**5.8.4 State Permits** - All state permits must be approved prior to submission of application and state permit numbers must be included on the application.

**5.8.5 New Lot Configuration** - No lot may be created by the adjustment of the lot boundary that does not conform to all provisions of these Zoning Regulations.

**5.8.6 Appeals –** A Zoning Permit for boundary adjustments may be appealed to the DRB under Section 8.4.1.

The approval for a boundary line adjustment shall expire180 days from that approval date, unless, within that 180 day period, the plan for the adjustment and deeds for the transfer of property are filed or recorded with the Richmond Town Clerk. After the approved plan and deeds are filed, no expiration of the approval shall be applicable.

## 5.9 Accessory Dwellings

**5.9.1 Permitted Use** - In accordance with the Act [§4412(1)(E)], one accessory dwelling within or appurtenant to a single-family dwelling, or within or appurtenant to an existing accessory structure to the single-family dwelling, may be allowed as a permitted use to a single-family dwelling, subject to the issuance of a Zoning Permit by the Administrative Officer, and all of the following requirements:

a) Either the single-family dwelling or the accessory dwelling must be occupied by the owner or by the owner's spouse, civil union partner, parents or legal children.
b) The accessory dwelling must be at all times owned by the same party that owns the single family dwelling.
c) The accessory dwelling shall be an efficiency or one-bedroom apartment that is clearly subordinate to the single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.
d) The accessory dwelling shall not exceed 30% of the total habitable floor area of the single-family dwelling as determined prior to the installation or construction of the accessory dwelling.
e) The property shall have sufficient wastewater capacity.
f) The accessory dwelling shall meet all applicable setback, coverage and parking requirements for the principal dwelling as specified in these Zoning Regulations. If the accessory dwelling is to be located in a nonconforming structure, it shall not increase the degree of nonconformance, except in accordance with Section 4.7.

**5.9.2 Conditional Use** - Conditional use approval by the DRB under Section 5.6_shall be required for an accessory dwelling for which any of the following also apply:

a) the accessory dwelling is to be located within a new single-family dwelling in a district in which conditional use review is required for single-family dwellings,
b) the accessory dwelling is to be located within a new or expanded accessory structure,
c) the accessory dwelling will increase the height or floor area of the existing single-family dwelling, or
d) the accessory dwelling will require an increase in the dimensions of the parking area.

**5.9.3 Conditions of Approval** – In addition to any other conditions of approval, the Zoning Permit issued for an accessory dwelling shall clearly state that the dwelling is allowed only as an accessory to the primary, principal single-family residential use of the property and as such shall be retained in common ownership. An accessory dwelling may be converted and/or subdivided for conveyance or use as a

principal dwelling only if it is found to meet all requirements of applicable municipal and state regulations for a two-family dwelling (for an attached unit) or for two single-family dwellings (for a unit in an accessory structure), including all lot, density and dimensional requirements for the zoning district in which it is located. All applicable municipal permits and approvals shall be obtained prior to conversion or conveyance as a principal single-family dwelling.

## 5.10 Requirements for Specific Structures

**5.10.1 Accessory Structure** - An accessory structure includes any structure that is customarily incidental and subordinate to the principal structure or use on a lot, including but not limited to, fences, walls, barns, sheds, greenhouses, gazebos, patios, and free-standing garages. Accessory structures (except for non-structural fences and walls which mark property boundaries, or enclose portions of the property, and are less than 6 feet high) shall conform to the setbacks established in the applicable Zoning District, unless a greater setback is required by these Zoning Regulations.

**5.10.2 Seasonal Dwelling** - A "seasonal dwelling" or "camp" structure shall not be occupied more than 180 days in any one year period. Camps which are pre-existing nonconforming structures or non-conforming uses shall be governed by Sections 4.7 or 4.9 of these Zoning Regulations. New camps and conversions of camps to single-family dwellings shall be permitted wherever single-family dwellings are permitted as long as all requirements for a single-family dwelling are met. Each camp which is converted to year-round single-family use shall be located on a separate conforming lot on which there is no other principal structure.

**5.10.3 Temporary Structure** - "Temporary Structures" include any structure erected for a transient purpose which remains in place for less than 120 days in any one year period. A Zoning Permit from the Administrative Officer for such temporary structures, including but not limited to seasonal produce stands, temporary fencing (excluding livestock fencing), wind measuring devices, temporary signs and storage areas, shall be required. No temporary structure may be used as a dwelling.

**5.10.4 Public Facilities and Utilities**

a) In accordance with the Act [§4413(a)], the following public facilities or uses may be regulated only with respect to their location, size, height, building bulk, yards, courts, setbacks, density of buildings, off Road or Highway parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of interfering with the intended functional use. The DRB shall apply these standards and require the Applicant to demonstrate how specific standards, when applied, interfere with the intended functional use of the proposed Land Development:
   i. State- or community-owned and operated institutions and facilities.
   ii. Public and private schools and other educational institutions certified by the Vermont Department of Education.
   iii. Churches and other places of worship, convents and parish houses.
   iv. Public and private hospitals.
   v. Regional solid waste management facilities certified by the state (under 10 V.S.A. Chapter 159).
   vi. Hazardous waste management facilities for which a notice of intent to construct has been received by the state (under 10 V.S.A. §6606a).

b) Public facilities must meet applicable requirements of these Zoning Regulations, and may be subject to site plan review under Section 5.5 or conditional use review under Section 5.6. Associated conditions of approval, however, shall not exceed allowed municipal regulation of these facilities, as specified under the Act and subsection a).

c) In accordance with the Act [§4413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. §248) are specifically exempted from municipal regulation.

## 5.11 Home Occupations, Child Care Homes , Group Homes

In accordance with the Act (§4412), the following uses are allowed as described below:

**5.11.1 Home Occupation** –Upon issuance of a Zoning Permit by the Administrative Officer, up to one third (1/3) of the floor area of a residential dwelling is permitted to be used for a home occupation that is

customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located, provided the following requirements are met:

a) The home occupation must be carried on by one or more full-time resident(s) of the dwelling.
b) A maximum of two other nonresident employees or fellow entrepreneurs shall be allowed.
c) Off-Road or Highway parking shall be provided.
d) The use shall be conducted entirely within the dwelling and not more than one accessory structure devoted to the home occupation not exceeding 1200 square feet.
e) There shall be no exterior storage of materials related to the home occupation, except for materials or facilities that are customarily associated with a residential use and at a scale consistent with residential use.
f) There shall be no storage of hazardous wastes or fuels.
g) There shall be no unreasonable noise, smoke, vibrations, dust, odors, heat, glare, traffic, unsightliness or other nuisance.
h) There shall be no retail sale of goods.
i) There shall be no traffic generated above and beyond that which is usual and customary in the neighborhood.
j) An amendment to the original permit shall be required before any new activities or increases in the number of non-resident employees, number of parking spaces, or square footage/location may occur.

**5.11.2 Child Care Home** - A Child Care Home which serves a maximum of six children full-time and four children part-time is an allowable use upon the issuance of a Zoning Permit by the Administrative Officer wherever single-family homes are permitted. A Child Care Home serving more than six full-time and four part-time children requires a conditional use review (per Section 5.6). Adequate off-Road or Highway parking shall be provided. Applications for any Child Care Home shall include detailed information and accurate measurements regarding location drop-off, parking, square footage in home for use, etc. The Administrative Officer may require additional information from the Applicant or may conduct a site visit to gather additional information.

**5.11.3 Group Home** - A group home serving up to eight residents shall be permitted wherever single-family homes are permitted unless they are to be located within 1,000 feet of another group home. If a new group home is to be located within 1,000 feet of an existing group home, then a conditional use review is required. Adequate off-Road or Highway parking shall be provided.

## 5.12 Planned Unit Development (PUD) and Residential PUD

**Purpose** – In accordance with the Act (§4417), Planned Unit Developments (PUDs) are authorized within designated zoning districts in order to encourage flexibility of design and the development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic provision of roads and utilities and to preserve the natural and scenic qualities of the open lands of the Town of Richmond. For purposes of these Zoning Regulations, Residential PUDs shall be considered a type of Planned Unit Development. The modification of the dimensional requirements governing lot area, lot dimension, lot frontage and lot coverage and the dimensional limitations for structures governing front, side and rear yard setback requirements of these Zoning Regulations may be permitted subject to the conditions set forth in this section, simultaneously with the approval of a subdivision plat under the Richmond Subdivision Regulations.

**5.12.1 Coordination of Review** – Applications for PUD or Residential PUD approval shall be reviewed by the DRB as a conditional use, subject to conditional use review and approval under Section 5.6 and concurrently with the review of a subdivision plat, in accordance with the Town of Richmond Subdivision Regulations. A Zoning Permit shall not be issued for any building or development in a PUD or Residential PUD until a Master Development Plan has been approved by the DRB if required by Section 5.12.4.viii. Any subsequent Zoning Permit, site plan or conditional use approval of a proposed development within an approved PUD or Residential PUD shall incorporate all applicable conditions of PUD/Residential PUD and Master Development Plan approval, if required by Section 5.12.4(viii), unless the Master Development Plan is also amended.

**5.12.2 General Conditions** - All PUD and Residential PUD applications shall meet the following conditions:

a) A PUD or Residential PUD is permitted in the R/C, G, V/C, C or I/C Districts. A Residential PUD is also permitted in the A/R or HDR Districts. The PUD provision may be used for any sized parcel, but is *required* for a development of over nine lots, or one in which multiple uses, multiple ownership of buildings or multiple buildings on a single lot are proposed. For the purpose of determining the number of lots, all lots shall be counted if they have been approved for subdivision by the DRB or Administrative Officer within a continuous period of sixty months preceding the date of filing the subdivision application.
b) A Residential PUD shall include only residential units. The dwelling units may be, at the discretion of the DRB, of varied types including single, two-family and multi-family dwellings. Home occupations, child care homes and group homes shall also be permitted.
c) A PUD may include any permitted or conditional uses in the District in which it is located. Multiple principal structures and/or uses on a lot, or multiple ownership of a single structure may be permitted.
d) The DRB may impose conditions to assure that a Residential PUD does not place an unreasonable burden on the ability of the Town of Richmond to provide municipal or governmental services.
e) The DRB may allow for a greater concentration of units than would otherwise be allowed in the underlying district within some section(s) of the development, provided there is an offsetting lesser concentration or an appropriate reservation of open space on the remaining land.
f) The total number of allowable dwelling units in the PUD or Residential PUD shall not exceed the number that would be permitted if the land were subdivided into lots in conformance with these Zoning Regulations for the Zoning Districts in which such land is located, and in accordance with Section 2.5 *Land Capability* of these Zoning Regulations. The DRB may authorize multiple uses in the Village Commercial and Residential Commercial districts. Multiple uses may be allowed on all lots in these districts (including preexisting, nonconforming lots) provided that adding multiple uses shall comply with the PUD standards and other specific criteria of these Zoning Regulations and state law. In any PUD in the Residential Commercial District, at least 50% of the gross floor area must be in residential use. In the Village Commercial District, at least 50% of the gross floor area must be in commercial use.
g) The PUD or Residential PUD is consistent with the Town Plan.
h) The PUD or Residential PUD is an effective and unified treatment of the development possibilities of the project site. The development plan should make appropriate provision for preservation of the following features when feasible: streams, stream banks, and water bodies, aquifer recharge areas, slopes greater than 20%, wetlands, soils unsuitable for development, agricultural lands, meadow lands, productive forest lands, historic features, unique natural features as identified in the Town Plan, wildlife habitat, high elevations, ridge tops, and floodplains.
i) The PUD or Residential PUD shall meet local and state regulations for sewage disposal and the protection of water quality.

**5.12.3 Additional Standards** - In addition to the specific standards in the Zoning District and, as applicable, review standards in Section 5.6 *Conditional Use Review,* or subdivision review standards under the Town of Richmond Subdivision Regulations, the following site standards also may be required as a condition of the DRB approval.

a) Greater setback and screening requirements for structures, parking areas and other development features along the perimeter of the property.
b) Adequate pedestrian circulation.
c) Improvements to roads to meet the Public Works Specifications.
d) Restriction of points of access to state or town roads.
e) Demonstration of the ability to properly develop, operate, and maintain development roads, utilities, and other private improvements.

**5.12.4 Application Procedures –**

a) A Zoning Permit shall not be issued for any building or development in a PUD or Residential PUD until the PUD or Residential PUD has been approved by the DRB.
b) The DRB shall hold one or more public hearings on the PUD or Residential PUD, , warned in accordance with Section 8.2.3, as required for conditional use review.

c) The Applicant shall submit one set of site plan maps and supporting data to the Administrative Officer for referral to the DRB, which, in addition to the application requirements for conditional use or subdivision review, shall include the following information:
   i. Name and address of the owners of record of adjoining lands. Name and address of person or firm preparing the map. Scale of map, north point, and date. Name, address, and interest of the Applicant in the subject property.
   ii. Survey of the property showing all existing, proposed or potential lot boundaries, and all existing or proposed easements, rights of way and deed restrictions.
   iii. Site resource map, at the same scale as the site plan, showing contours, indicating soils suitable for on-site sewage disposal, wetlands, Areas of Special Flood Hazard, bodies of water, slopes of 20% grade or greater, ridge lines, agricultural and forest land, critical wildlife habitat, and identified natural or historic features.
   iv. Site plan showing the locations of proposed structures and their use; Road(s) or Highway(s), driveways, traffic circulation, parking, and pedestrian ways; landscaping, including site grading, landscape design, and screening; utility lines; lighting; water supply sources and sewage disposal areas; and land that may be set aside for common lands and/or public use.
   v. A statement setting forth the nature of all proposed modifications, changes, or supplements of these Zoning Regulations and the proposed standards and criteria which the Applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces.
   vi. Construction sequence and time schedule for completion of each phase of buildings, Roads or Highways and parking, landscaping and amenities.
   vii. Proposed restrictive covenants for those developments that shall provide common open space, recreation, roads, parking areas, community water and sewer systems, or other facilities owned or maintained in common.
   viii. A Master Development Plan for any portion of the parcel or lot not proposed for Land Development in the PUD or Residential PUD as of the application date. The Master Development Plan shall conceptually show future roads, future building areas, future open areas, and future uses on such remaining land.

**5.12.5 Common Land** - If the proposal results in lands available for park, recreation, open space, agriculture, forestry or municipal purposes, such common land must meet the following requirements:

a) The location, shape, size and character of the common land is suitable for its intended use and for the development given its size, density and physical features.
b) Common land shall be suitably improved for its intended use, except that common unimproved land, and lands designated for agriculture and forestry, may be so utilized.
c) Prior to the issuance of any Certificate of Occupancy for any Land Development in the PUD or Residential PUD, the Applicant shall provide for and establish an organization or trust for the ownership and maintenance of any common facilities or open space: the organization or trust shall not be dissolved or revoked nor shall it dispose of any common facilities or open space, by sale or otherwise, except to an organization or trust conceived and established to own and maintain the common facilities or open space, without first offering to dedicate the same to the Town or other government agency to maintain those common facilities or that open space.

**5.12.6 Roads and Other Facilities**

All roads, sidewalks, recreation paths, water and sewer lines, stormwater facilitites, utilities, and related facilities in a PUD or Residential PUD (each a "Facility") shall remain private until formally accepted by vote of the Town Selectboard. If the Applicant intends to offer any Facility to the Town, then, with the application for FINAL SUBDIVISION approval, the Applicant shall submit the following:

a) A draft irrevocable offer of dedication;
b) A draft warranty deed conveying to the Town:
   i. For a road Facility, fee simple title to a 60 foot wide area of land, 30 feet on either side of the road centerline; and
   ii. For any other Facility, either fee simple title to an area where the Facility will be located, or an easement for the Facility's use, maintenance, repair, enlargement, and replacement. The

warranty deed shall not be subject to any encumbrances, including but not limited to mortgages and other easements.

Final Subdivision approval shall not constitute acceptance of the facility as a public facility, as acceptance can only occur by vote of the Selectboard. Final approval shall not be deemed to prevent the Town Selectboard from requiring any modifications to the irrevocable offer or any instruments or the deed that the Selectboard deems appropriate prior to acceptance.

### 5.12.7 PUD and Residential PUD Review Process-

The PUD or PUD and Master Development Plan decision will be issued concurrently with the conditional use or final subdivision plan decision. The DRB shall hold a public hearing on the application, warned in accordance with Section 8.2 and shall provide opportunity for any person wishing to achieve status as an Interested Person to demonstrate that they meet the definition of “Interested Person” under the Act (§4465) and these Zoning Regulations for purposes of appeal. The DRB shall act to approve, approve with conditions, or deny the application and issue a decision as provided in Section 8.2.

# 6. SPECIAL ZONING REGULATIONS

## 6.1 Parking and Loading

**Purpose** - To ensure the adequate provision of parking and loading facilities for all Land Development within the Town of Richmond, in accordance with the Act (§4414) and the following standards.

**6.1.1 Loading Requirements** - All uses shall provide off-Road or Highway loading spaces in conformance with the below standards, except residential uses and those uses receiving a waiver under this section.

a) **Location** - All loading spaces shall be located on the same lot as the principal use. Loading spaces shall minimize circulation conflicts on the lot. Loading areas shall not be calculated to include required off-Road or Highway parking spaces.

b) **Size** - All loading spaces shall be of sufficient size to allow necessary maneuvering for deliveries without encroaching upon the public right of way, parking spaces, or internal parking lot circulation unless a specific waiver is approved by the DRB. Loading spaces shall be fifteen (15) feet wide by twenty-five (25) feet in length. The DRB may require greater dimensions if deemed necessary to handle projected truck traffic volumes.

c) **Surfaces** - All loading areas shall be hard-surfaced and clearly marked with painting to designate the loading area. This requirement may be waived by the Administrative Officer or the DRB based upon projected traffic counts.

d) **Combination of uses** - Loading spaces may be designed to serve one or more businesses located in the same building or on the same lot. The DRB may approve joint usage on adjacent lots provided a written agreement is submitted and filed with a deed.

e) **Ratios** - One (1) space for the first 5000 square feet of gross floor area. One (1) additional space for each additional 30,000 square feet of gross floor area.

f) **Other standards** - Loading areas shall meet screening, landscaping, lighting, and other development standards as specified herein.

g) **Waivers** - All waiver requests shall be submitted in writing. The Administrative Officer may approve a waiver request for a change in use which does not increase loading requirements or any building expansion which does not exceed five hundred (500) square feet of gross floor area. The DRB may approve waiver requests under one or more of the following circumstances:

   i. The proposed use will require minimal deliveries which will not interfere with the traffic circulation on the lot.
   ii. Deliveries are made during non-business hours.
   iii. Existing development makes it impossible to meet loading standards.

   The DRB may require that waivers be filed with Town Land Records and that a statement be attached that any change in use may require the construction of loading facilities.

**6.1.2 Off-Road or Highway Parking Requirements -**

a) All required parking spaces shall have a minimum width of nine (9) feet and a minimum length of eighteen (18) feet.

b) Parking lot aisles shall meet the following minimum dimensional standards:

| Parking Pattern | Minimum One-Way Aisle Width | Minimum Two-Way Aisle Width |
|---|---|---|
| 90° Perpendicular | Twenty feet | Twenty-five feet |
| 60° Angle | Eighteen feet | Twenty-five feet |
| 45° Angle | Sixteen feet | Twenty-five feet |
| 30° Angle | Fourteen feet | Twenty-five feet |
| Parallel | Twelve feet | Twenty feet |

c) The required number of off-Road or Highway parking spaces shall be as follows:

| **Land Use \ Building Type** | **Required Parking Spaces**<br>***SFGFA = Square feet of gross floor area**<br>****SFGRA = Square feet of gross retail area** |
|---|---|
| Auto repair \ Painting | 2.0 per 1,000 SFGFA* |
| Bank | 3.3 per 1,000 SFGFA* |
| Bank with drive-through facility | 3.0 per 1,000 SFGFA* |
| Bowling alley | 4.5 per lane |
| Church/Synagogue/Conference area | .5 per seat or 22 linear inches of bench |
| Cleaners | 1.5 per 1,000 SFGFA |
| Convenience store | 7.5 per 1,000 SFGFA* |
| Eating and drinking establishment | 20 per 1,000 SFGFA* |
| Drive-through facility | 3 spaces per drive-through window |
| Fast food restaurant | 14 per 1,000 SFGFA* |
| Furniture store | 2 per 1,000 SFGFA* |
| Hardware store | 3 per 1,000 SFGFA* |
| Hospital/clinic | 1.5 per bed |
| Hotel or Motel | 1 per room |
| Industrial park | 1.6 per 1,000 SFGRA** |
| Laundromat | 5.0 per 1000 SFGRA* |
| Museum | 3.3 per 1,000 SFGRA** |
| Nursing home | .33 per room |
| Personal services establishment | 2.0 per 1,000 SFGFA +1 per customer service station |
| Professional office | 3.5 per 1,000 SFGFA* |
| Recreation center | 4 per 1,000 SFGFA* |
| Residential:<br>Accessory dwelling<br>Bed and breakfast<br>Boarding house/dormitory<br>Child care home<br>Retirement Community<br>Fraternity / sorority<br>Group home<br>Home occupation<br>Multi-family (3 or more units)<br>Single-family<br>Two-family<br>Triplex | <br>1 per unit<br>1 per sleeping room + 2 per dwelling<br>1 per sleeping room<br>2 per dwelling unit + 1 per nonresident employee<br>0.5 per dwelling unit or other sleeping room<br>1.5 per 1,000 SFGFA*<br>0.3 per sleeping room<br>2 per dwelling unit + 1 per nonresident employee<br>2 per dwelling unit + 1 guest space per each 10 units<br>2 per dwelling unit<br>2 per dwelling unit<br>2 per dwelling unit |
| Retail sales establishment | 2.5 per 1,000 SFGFA* |
| Service station | 5.5 per 1,000 SFGFA* |
| Shopping center | 4 per 1,000 SFGFA* + 10 spaces/1,000 sq. ft. food service. Off-site employee parking may allow 15% reduction. |

| Land Use \ Building Type | Required Parking Spaces<br>*SFGFA = Square feet of gross floor area<br>**SFGRA = Square feet of gross retail area |
|---|---|
| Sports club \ Health spa | 5 per 1,000 SFGFA* |
| Warehouse | 0.25 per 1,000 SFGFA* |

d) If the land use or building type is not contained in this zoning ordinance, then the American Planning Association's 'Off Street Parking Requirements' shall provide the range for the number of spaces required.

**6.1.3. Drive-through Facilities** -

a) **Location.** Drive-through facilities shall not utilize required parking spaces to meet stacking requirements. Facilities shall be designed to minimize conflicts with other on-site vehicular and pedestrian traffic.

b) **Stacking requirements.** A minimum of six (6) vehicles should be accommodated in each stacking lane.

**6.1.4 Parking or storage of junk vehicles** - The parking or storage of any unlicensed or junk vehicle is prohibited except as provided in a vehicle repair facility unless screened from view from the adjoining Road or Highway and property line. No junk vehicle may be parked or stored within any required setback. No such vehicle parked, or stored on any lot shall decrease the required number of parking spaces. In no instance may junk vehicles be parked and stored in any residential District except for one personally owned vehicle which is totally screened from view.

**6.1.5 Parking of Recreational Vehicles** - Recreational vehicles shall meet the following requirements:

a) No more than one such vehicle may be parked in a driveway or front yard outside of the required setbacks.

b) No such vehicle, parked or stored, on any lot shall decrease the required number of parking spaces.

c) The parking of a recreation vehicle owned by visitors may be temporarily parked for a period of time not to exceed three (3) consecutive weeks.

d) Recreational vehicles parked within the Flood Hazard Overlay District (Section 6.8), shall also meet the requirements of Section 6.8.13(e).

**6.1.6 Other Parking Standards and Applicability -**

a) **Location -** All parking areas subject to administrative review by the Administrative Officer, except for such areas associated with single or two-family dwellings, or other Land Development specifically exempted from site plan review, shall require Site Plan Review (see Section 5.5.1). All parking areas shall be located on the lot for which the parking requirement was generated unless specific alternatives are approved by the DRB.

b) **Surfacing -** All parking areas shall be hard-surfaced (asphalt or concrete). The DRB may waive this requirement if the Applicant demonstrates that all of the remaining standards of section 6.1.6 will be met. In addition, the following specific standards shall be considered by the DRB when reviewing a waiver request for surfacing requirements:

   1) The parking area shall be designed so as to prevent the intrusion of gravel or a similar surfacing material onto the road / Road or Highway travel lanes or adverse impacts on drainage systems.

c) **Drainage** - All parking areas and associated roadways shall be designed and constructed with detention devices, such as, but not limited to overland grassed and/or stone lined swales, detention basins, and settling ponds, in order to assure that the post development peak flow stormwater volumes from such parking areas and roadways do not exceed the predevelopment quantities based on the run-off from a twenty-five year, twenty-four hour storm event. All such devices shall be designed and constructed to the standards in the Public Works Specifications, except that in the event of a conflict between the Public Works Specifications and the preceding sentence, the preceding sentence shall control. Unless stormwater flows are contained on the lot where such parking areas and roadways are located, there must also be adequate off-site drainage areas to accommodate such flows.

d) **Parking for Persons With Disabilities** - All parking areas shall provide for persons with disabilities which are clearly designated and marked, and signed, using the international symbol for access required by Title 21 V.S.A. Section 275, as amended, for use by such persons only.
e) **Off-Site Parking** - State, municipal or private commuter lots shall be approved by the DRB subject to Site Plan Review under Section 5.5.
f) **Setbacks** - All parking spaces shall meet the setback standards for the District in which it is located except parking in driveways in the Agricultural / Residential District for single-family residential uses.
g) **Screening** - The DRB may require screening for any parking lots located within any front yard. Screening shall emphasize the separation of parking lots from adjoining public Roads or Highways to minimize glare from vehicle headlights onto public Roads or Highways. The use of berms and landscape materials is the preferred method of screening. The DRB may approve fencing, if it determines the more preferred methods are impractical.
h) **Landscaping** - All parking lots shall be landscaped as approved by the DRB.
i) **Pedestrian access** - The design of all parking lots shall incorporate measures to minimize safety hazards to pedestrians. Pedestrian paths shall be designated and clearly marked. Separation of vehicle and pedestrian traffic shall be included in all parking lot plans where possible. The DRB may waive this requirement due to unique characteristics of the lot, or innovative alternative designs.
j) **Bicycle access** - Parking lots shall be designed to encourage bicycle access. Any parking lot which is required to have fifteen (15) or more parking spaces shall provide bicycle racks at a location convenient to the main entrance to the business. The DRB may waive this requirement if in their judgment the business will not generate bicycle traffic.
k) **Striping** - Hard surfaced parking spaces shall be clearly striped and maintained and shall meet standard parking dimensional requirements as specified by the DRB.
l) **Traffic Control Signs** - The DRB may require the use of uniform ingress and egress signs, traffic control signs, and other signs as necessary to direct the flow of traffic.
m) **Lighting** - Lighting shall be provided in all parking lots as approved by the DRB and in conformance with Section 4.11, *Exterior Lighting*, of this Regulation.
n) **Joint Parking Facilities** - Joint parking arrangements may be approved by the DRB, provided that the Applicant has submitted legal documentation to guarantee continued long-term availability of said parking. Within any shopping center or other areas where joint parking has been established, the DRB may not approve any site plan amendments or other use changes which would increase parking needs, or any waivers of parking requirements, until the Applicant has submitted proof of notice to all tenants or shared parking participants of the proposed change.
o) **Fire Lanes** - All fire lanes as recommended to the DRB by the Fire Chief shall be clearly designated by pavement markings and/or signage. All designated fire lanes shall be kept free from obstruction at all times. Vehicles parked within a designated fire lane for any period of time shall be subject to immediate towing at the owner's expense.
p) **Waivers** - The DRB may waive some or all parking requirements and may place conditions on a waiver as necessary to guarantee adequate parking. The DRB may require any change in use on any property where a waiver has been granted to be reviewed for parking impacts, and the change shall be prohibited if it is deemed to generate a parking deficiency. The DRB shall determine that one or more of the following standards are met at a specific location prior to granting a waivers:
    i. The proposed uses have staggered business hours with minimal overlap in business hours.
    ii. The Applicant presents evidence that the parking requirements are excessive based upon new parking studies, traffic engineering data, or obvious and apparent existing parking demands.
    iii. The Applicant demonstrates that the demand for parking is reduced because the type of business proposed substantially relies on pedestrian traffic.
    iv. The Applicant demonstrates that sufficient off-Road or Highway parking is available at other locations within two hundred (200) feet which are, or have been approved by the DRB.
    v. The use of mass transit, or other alternate transportation reduces parking demand.
    vi. Joint parking facilities with abutting businesses are sufficient to meet parking demand.
    vii. The I.T.E. (Institute of Traffic Engineers) Parking Manual, or other professional source, provides data which demonstrates parking demand for a proposed use is less than the standards specified in these Zoning Regulations.

## 6.2 Driveway Requirements

**6.2.1 Standards** - The following standards for driveways and their intersections with public Roads or Highways shall apply:

a) Unless specifically approved by the DRB there shall be a maximum of one driveway per lot accessing a public Road or Highway. This provision shall not disallow a shared driveway between two or more lots, or dual driveways where one lane is marked for entering traffic and one lane for exiting traffic.
b) Driveways shall meet the following standards unless a different size is required by the DRB due to special circumstances: Residential - 12 feet minimum width, 36 feet maximum width; Commercial - 20 feet minimum width, 36 feet maximum width.
c) The DRB may require installation of acceleration and/or deceleration lanes on the adjacent public Road or Highway if it deems necessary.
d) Driveways shall be located more than 100 feet from signalized Road or Highway intersections (measured between the near edges of the driveway and intersection). Greater distances may be required on Roads or Highways with high traffic volumes.
e) The intersection of the driveway to the public or private road shall conform to the standards in the Public Works Specifications. The driveway shall meet the Vermont Agency of Transportation's B-71 Standards for construction.
f) For the length of the driveway, the driveway grade shall not exceed twelve (12) percent except that the last 200 feet from the foundation of the primary structure being served shall not exceed fifteen (15) percent. In measuring the compliance of a driveway, the maximum grade may not be exceeded along the driveway center-line.

**6.2.2 Access to Abutting Properties** - The DRB may require reservation of land on any lot for provision of access to abutting properties whenever such access is deemed necessary to reduce curb cuts onto an arterial or collector Roads or Highways, to provide additional access for emergency or other purposes, or to improve general access and circulation in the area.

## 6.3 Pedestrian and Bike Ways

During conditional use review or site plan review, the Applicant may be required to accommodate planned expansions of existing municipal pedestrian paths and bike ways by negotiating an easement for such expansion.

## 6.4 Swimming Pools

In-ground swimming pool areas must be completely enclosed by a fence or similar structure at least four feet high so as to restrict unsupervised access by young children. Aboveground pools shall not be accessible by unsupervised children.

## 6.5 Mobile Homes and Travel Trailers

Travel trailers shall not be occupied while they are stored on a lot for more than one month during the calendar year and must have suitable disposal of all waste and wastewater generated. Mobile homes may not be located or occupied on any lot which has an existing residential principal use except within an approved mobile home park. Mobile homes outside of a mobile home park must be located on their own lot and have received all required state and local residential permits.

## 6.6 Taller Structures (Height Exemption)

Farm accessory buildings and structures in §4412(6) of the Act are exempt from the 35' zoning district height restriction. Spires, chimneys, water towers, windmills, cupolas, rooftop solar collectors, domes, belfries and antennae may extend up to 45' from the ground. Taller structures may accommodate a steeply pitched roof extending to 45' provided there is no occupancy or use between 35' and 45'. The communications industry shall be encouraged to share a single tower to mitigate impacts on ridgelines.

## 6.7 Shoreline Protection Overlay District

**Purpose** - It is the purpose of this section to promote the public health, safety, and welfare by protecting the shorelines of the Winooski and Huntington Rivers, Gillette Pond and the Richmond portion of Lake Iroquois from erosion, pollution, and visual blight. These bodies of water are recognized as providing important wildlife habitat, recreational opportunities, and scenic enjoyment for the public. The Shoreline District includes

shorelines listed in the Richmond Town Plan and are regulated as depicted on the official "Shoreline Protection Overlay Map" of the Town of Richmond, in accordance with the Act (§4414).

**6.7.1 Shoreline Overlay District Boundary** - All Land Development occurring within the fifty (50) foot Shoreline District must comply with both the requirements of this section and with the requirements of the underlying district. In situations of conflict between the requirements of the Shoreline District and any other provisions of these Zoning Regulations, the more stringent shall be applied.

**6.7.2 Permitted Uses** - Agricultural use of land, no structures.

**6.7.3 Conditional Uses** - Permanent agricultural structures and all other uses allowed in the underlying district except for those uses as prohibited under Section 6.7.5, *Prohibited Uses*, below.

**6.7.4 Additional Conditional Use Criteria** - For Conditional Use Review under this section, the following criteria shall be used in addition to those criteria specified in Section 5.6, *Conditional Use Review*. The DRB shall evaluate the effect of the proposed use based on the following:

a) That the use shall be planned and located in a manner best suited to protect the shoreline from pollution, erosion, and visual blight.
b) That the use shall not result in erosion of the shoreline, introduction of pollutants to the river, increase in flooding, detrimental effect on shoreline and aquatic habitats, or other impacts which would effect water quality, visual quality, or other purposes of these Zoning Regulations.

**6.7.5 Prohibited Uses -**

a) Storage of hazardous materials including petroleum products.
b) Open storage of road salt.

**6.7.6 Other Rivers, Brooks and Ponds** - In order to maintain and improve water quality throughout the Town, a fifty (50) foot buffer is highly encouraged on all streams and brooks.

## 6.8 Flood Hazard Overlay District

### 6.8.1. Statutory Authority for Flood Hazard Overlay District and Underlying Districts

a) In accordance with 10 V.S.A. Chapter 32 and V.S.A. Chapter 117 §4424, §4411 and §4414, these Flood Hazard Overlay District Regulations are hereby established for areas at risk of Flood damage in the Town of Richmond.

b) Any Development in the Flood Hazard Overlay District requires a Zoning Permit from the Town of Richmond.

c) Any Development must comply with the provisions of the Flood Hazard Overlay District and the underlying zoning district. If a conflict exists between the provisions of the Flood Hazard Overlay District and the underlying zoning district, the provisions of the Flood Hazard Overlay District shall control, unless the use is not permitted within the underlying zoning district.

### 6.8.2. Statement of Purpose

The purposes of the Flood Hazard Overlay District are:

a) To implement the goals, policies, and recommendations in the current Town Plan;

b) To avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the public expenditures and demands on public service that result from Flooding related to inundation;

c) To restrict new residential and commercial development along river corridors leading to healthier rivers and natural areas;

d) To ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing and does not impair the stream equilibrium, the function served by the Floodplain, or the stream corridor; and

e) To manage all Special Flood Hazard Areas designated pursuant to 10 V.S.A., Chapter 32, §753, the Town of Richmond "All-Hazards Mitigation Plan"; and make the Town of Richmond, its citizens, and businesses eligible for federal Flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available. In recognition of the high level of exposure to the Base Flood in Richmond and the resulting risks, these regulations are designed to meet or, in specific aspects, to exceed the minimum requirements established by the National Flood Insurance Program.

### 6.8.3. Other Provisions

a) Precedence of Bylaw - The provisions of Section 6.8 shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this section imposes a greater restriction than other regulations, the provisions of this section shall take precedence.

b) Warning of Disclaimer of Liability - These Flood Hazard Overlay District regulations do not imply that land outside the Flood Hazard Overlay District or Development permitted within such district will be free from Flooding or Flood damages. These regulations shall not create liability on the part of the Town of Richmond or any town official or employee for any Flood damages that result from reliance on these Zoning Regulations or any administrative decision lawfully made hereunder. These regulations do not imply that a property is or is not eligible for Flood insurance. These regulations do not determine Flood insurance rates.

### 6.8.4 Definitions

In addition to the definitions in Section 7, the following definitions apply only to Section 6.8 and supersede Section 7 definitions if presented in both sections.

***Area of Special Flood Hazard*** – synonymous in meaning with the phrase "Special Flood Hazard Area" for the purposes of these regulations.

***Base Flood*** – the Flood having a one (1) percent chance of being equaled or exceeded in any given year, generally known as the one hundred (100) Year Flood.

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

***Basement*** – any area of the building having its floor elevation below ground level on all sides.

***Channel*** – an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

***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, community 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*** – *[For the Flood Hazard Overlay District, the use of the term "Development" in Section 6.8 replaces the term "Land Development" which is defined in Section 7.0 and applies to the rest of the Richmond Zoning Regulations.]* "Development" means any human-made change to improved or unimproved real estate, including but not limited to buildings or other Structures, mining, dredging, Filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

***Elevation Certificate*** – FEMA official record that shows Structures and Substantial Improvements for existing Structures in identified Special Flood Hazard Areas (SFHAs) are properly elevated.

***Engineering Report and Plan*** - a report and a plan prepared by and signed by an engineer licensed to practice in Vermont, delineating the Base Flood Elevation Area on a property by an accepted engineering method, including but not limited to a methodology recognized by a federal or Vermont state agency, and which show the calculated Special Flood Hazard Area boundary with sufficient information for such boundary to be confirmed. The Engineering Report and Plan must include a contour map showing the actual BFE of the area and, if no BFE is available from a Flood Insurance Study, a hydrologic and hydraulic study is needed as part of the Engineering Report and Plan to provide the BFE.

***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 June 21, 1982 (the date of Richmond's first adopted "Flood Hazard Area Development Standards") and includes any subsequent improvements to such Structures.*

***Expansion to an Existing Manufactured home Park or Subdivision –*** *[The Flood Hazard Overlay District regulations do not allow the expansion to an Existing Manufacturing Home Park or Subdivision.]* Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing 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).

***Farm Structure*** – a Building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants (e.g., a silo or commercial greenhouse) or carrying out other practices associated with Accepted Agricultural Practice, including a silo, as "farming" is defined in state law [10 V.S.A. §6001 (22)], but excludes a Dwelling for human habitation, in accordance with the Act (§4413).

***FEMA –*** U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency

***Fill*** – Any placed material that changes the natural grade, increases the elevation, or diminishes the Flood storage capacity at the site.

***First Floor Elevation (FFE)*** - the Base Flood Elevation plus one foot or more for Flood damage mitigation.

***Flood*** – is (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, or (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 hazard areas and the risk premium zones applicable to the community.

***Flood Insurance Study (FIS)*** – A FEMA 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. *[For purposes of these regulations, the term "Flood Elevation Study" is synonymous in meaning with the Flood Insurance Study.]*

***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, Regulatory, in Town of Richmond*** - 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.

***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.

***Improvement*** – any reconstruction, rehabilitation, addition, or other improvement to a Structure which does not meet the definition of Substantial Improvement.

***Letter of Map Change*** - a general term used to refer to the several types of revisions and amendments to maps issued by FEMA that can be accomplished by letter. The following are types of Letter of Map Change:

A. ***"LOMA"; Letter of Map Amendment*** – A letter of map revision issued by FEMA officially removing a Structure, Lot, or portion of a Lot from the FEMA Special Flood Hazard Area (SFHA) as designated on the Flood Insurance Rate Maps, 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.

B. ***"LOMR"; Letter of Map Revision*** – Based on a formal request from a property owner or Applicant and supporting documentation, a LOMR is a revision to a Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a Flooding source and thus result in the modification of the existing regulatory Floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

C. ***"LOMR-F"; Letter of Map Revision based on Fill*** – A modification of the Special Flood Hazard Area (based on Fill placed to raise a Structure or Lot to or above the 1% annual chance Flood elevation) outside of the existing regulatory Floodway, based on a formal request from a property owner or Applicant and supporting documentation.

***Lowest Floor*** - the Lowest Floor of the lowest enclosed area, including Basement or Walkout-on-grade Basement, except an unfinished or Flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a Basement area is not considered a building's Lowest Floor; provided that such enclosure is not built so as to render the Structure in Violation of the applicable non-elevation design requirements of 44 CFR 60.3 and this Section 6.8, in particular Section 6.8.15.

***Manufactured home*** – *[For purposes of Section 6.8, the term "Manufactured home" includes a "modular home" and a "Mobile Home" but does not include a "recreational vehicle."]* Means a Structure, transportable in one or more sections, which is built on a Permanent chassis and is designed for use with or without a Permanent foundation when attached to the required utilities.

***Manufactured home park or subdivision*** – a parcel (or contiguous parcels) of land divided into two or more Manufactured home lots for rent or sale.

***New Construction*** – *For the purposes of determining insurance rates,* Structures for which the "Start of Construction" commenced on or after the effective date of the original Flood Insurance Rate Maps for the Town of Richmond [dated January 5, 1982], including any subsequent improvements to such Structures. For *Floodplain management purposes*, New Construction means Structures for which the Start of Construction commenced on or after June 21, 1982 (the date of Richmond's first adopted "Flood Hazard Area Development Standards") and includes any subsequent improvements to such Structures.

***New Manufactured home park or subdivision*** - *[For purposes of Section 6.8, Manufactured home parks are not permitted or conditional uses.]* Means 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 on or after June 21, 1982.

***Nonconforming Structure -*** a Structure or part of a Structure that does not conform to these Zoning Regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a Structure improperly authorized as a result of error by the administrative officer. Structures that were in Violation of the Flood hazard regulations at the time of their creation, and remain so, remain Violations and are not Nonconforming Structures.

***Nonconforming use -*** use of land that does not conform to these Zoning Regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a use improperly authorized as a result of error by the administrative officer.

***Nonconformity*** - a Nonconforming use, Structure, lot, or parcel.

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

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

***Start of Construction*** – for *purposes of Floodplain management*, determines the effective map or Bylaw that regulated Development in the Special Flood Hazard Area. The "Start of Construction" includes Substantial Improvement, and means the date the Zoning 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 any 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*** - For regulatory purposes, Structure means a walled and roofed Building, as well as a Manufactured home, and any related built systems, including 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 Effective Date of adoption, the cost of which, over three years, or over the period of a Common Plan of Development, cumulatively exceeds 50 percent of the market value of the Structure before the Start of Construction of the improvement, or which results in an expansion of greater than 25% of the existing Gross Floor Area, whichever is less. This term includes Structures which have incurred Substantial Damage, regardless of the actual repair work performed. The term does not, however, include (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 state or local code enforcement official and which are the minimum necessary to assure safe 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*** – Failure of a Structure or other Development to be fully compliant with Section 6.8 and all provisions pertaining to Flood hazards. A Structure or other Development without the Elevation Certificate,

other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in Violation until such time as that documentation is provided.

***Walkout-on-grade Basement*** – Basement whose floor is at ground level along at least a portion of one side of the house, usually with a door on that side. This is considered the Lowest Floor.

**6.8.5 Lands to Which These Regulations Apply -**

**a) Regulated Flood Hazard Areas** - These regulations shall apply to the Flood Hazard Overlay District which overlays any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. The Flood Hazard Overlay District includes:

i. FEMA Special Flood Hazard Areas (however identified and by whatever language or terms described) on the most current Flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) as provided by the Secretary of the Agency of Natural Resources pursuant to V.S.A. 10, Chapter 32 §753. The FEMA Flood insurance studies and maps are hereby adopted by reference and declared to be part of these Zoning Regulations; and

ii. All land outside of the FEMA Special Flood Hazard Area but within 100 feet of the outside edge of the FEMA Special Flood Hazard Area, unless the jurisdictional determination made pursuant to Section 6.8.6 concludes that the area proposed for Development is above the Base Flood Elevation and, therefore, is not within the Flood Hazard Overlay District.

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

**6.8.6 Flood Hazard Overlay District Jurisdictional Determination Process**–

The purpose of the Flood Hazard Overlay District jurisdictional determination process is to establish whether a given area on a property shall be subject to the jurisdiction of Section 6.8.

**a) General Review** – The process for establishing jurisdiction for the Flood Hazard Overlay District begins with a two-step review by the Administrative Officer regarding the locations of all areas proposed for Development to assess whether:

i. The area (measured horizontally) is within the FEMA Special Flood Hazard Area as defined in Section 6.8.5.a).

ii. The area is outside the FEMA Special Flood Hazard Area but within 100 feet (measured horizontally) of the outside edge of the FEMA Special Flood Hazard Area.

The Administrative Officer shall conduct a Flood Hazard Overlay District jurisdictional determination to assess if any area proposed for Development is located within either i. or ii. above and is, therefore, subject to the Flood Hazard Overlay District regulations.

**b) Jurisdictional Determination Scope -** The Flood Hazard Overlay District jurisdictional determination shall be made by the Administrative Officer prior to any action taken on an application for proposed Development for any parcel.

**c) Jurisdictional Determination Process** - The Flood Hazard Overlay District jurisdictional determination is a jurisdictional opinion issued by the Administrative Officer and must be conducted for any parcel proposed for Development. The Administrative Officer shall institute the Flood Hazard Overlay District jurisdictional determination process, based on whether i. or ii. apply:

i. When an area proposed for Land Development is located clearly 100 feet or more <u>beyond</u> the outside edge of the FEMA Special Flood Hazard Area, the Administrative Officer shall issue

the jurisdictional determination concurrently with the Zoning Permit approval or denial, based on a complete application for Development.

ii. When an area proposed for Land Development is inside (or may be inside) the FEMA Special Flood Hazard Area or is located outside the FEMA Special Flood Hazard Area but within 100 feet (or may be within 100 feet) of the outside edge of the FEMA Special Flood Hazard Area, the jurisdictional determination process is initiated by the Administrative Officer upon receipt of a complete application for proposed Development. The jurisdictional determination follows procedures for Administrative Officer approval as established in Section 5.2.2.

1) The Administrative Officer shall review the application for proposed Development provided by the Applicant and refer to the boundaries and other features shown on the most recent FEMA Flood Insurance Rate Maps and FEMA Flood Boundary and Floodway Maps. In addition, the Administrative Officer will review any applicable map amendments created via a Letter of Map Change Approved by FEMA. The information presented on any FEMA maps or studies, adopted by reference, is presumed accurate. The Administrative Officer will make a jurisdictional determination regarding the locations of all areas proposed for Development on the property.

2) Any area within the FEMA Special Flood Hazard Area shall be under the jurisdiction of Richmond's Flood Hazard Overlay District unless that area is formally removed by a Letter of Map Change, specifically a LOMA or LOMR as determined by FEMA, per Section 6.8.7. A LOMR-F shall not be used to remove land from the jurisdiction of the Town of Richmond Flood Hazard Overlay District. A Letter of Map Change includes a report of findings which shall be presented by the Applicant to the Administrative Officer. If the area proposed for Development appears to be within the FEMA Special Flood Hazard Area, the Administrative Officer shall consider the area to be within the FEMA Special Flood Hazard Area.

3) Any area located outside the FEMA Special Flood Hazard Area but within 100 feet of the outside edge of the FEMA Special Flood Hazard Area shall be under the jurisdiction of Richmond's Flood Hazard Overlay District unless the Administrative Officer determines that land is above the Base Flood Elevation. The Administrative Officer shall require the Applicant to provide information as part of the application which establishes the Base Flood Elevation for the area proposed for Development using one of the following methodologies:

A. FEMA's simplified methodology for "Contour Interpolation" as laid out in the FEMA publication, Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations, 1995. Section V., "Developing Base (100-Year) Flood Elevations," at the Applicant's expense.

B. The Administrative Officer shall require that an Engineering Report and Plan be developed, at the Applicant's expense, when there is doubt on the part of the Administrative Officer due to alterations in river characteristics that are likely to affect a change in the area that is subject to the Base Flood Elevations in stream Channels subsequent to the most recent FEMA Flood Insurance Rate Maps or FEMA Flood Boundary and Floodway Maps or for any other reason deemed necessary.

4) If the area is outside of the FEMA Special Flood Hazard Area but within 100 feet of the outside edge of the FEMA Special Flood Hazard Area and is clearly above the Base Flood Elevation beyond any reasonable doubt, the Administrative Officer may determine that a "Contour Interpolation" calculation or an Engineering Report and Plan is not required. In such jurisdictional determinations, the area proposed for Development shall not be subject to the jurisdiction of the Flood Hazard Overlay District.

5) The Applicant has the option to concede that the area proposed for Development falls within the jurisdiction of the Flood Hazard Overlay District regarding a specific application. This concession is not applicable and is not binding on any future FHOD jurisdictional determinations or new applications for either the Applicant or the Town of Richmond.

**d) Jurisdictional Determination Decisions** - Jurisdictional Determinations by the Administrative Officer shall be issued in writing within the following time frames based on the nature of the request or application:

i. Within 30 days of the date when a complete application for Land Development is submitted (per Section 6.8.6.c)i., per Section 6.8.6.c) ii.3), or per Section 6.8.6.c)ii.4). above); or
ii. Within 30 days of expiration of the time provided in Section 6.8.16.b).

**e) Jurisdictional Determination Appeals** - Appeals concerning Flood Hazard Overlay District jurisdictional determination of the Administrative Officer may be made to the DRB within 15 days of the issuance of the jurisdictional determination or of the Zoning Permit approval or denial in which a Flood Hazard Overlay District jurisdictional determination was made. The DRB shall hear the appeal in accordance with Section 5.2.3 and Section 8.5 and shall make its decision in conformance with Section 6.8.6.

**6.8.7. Removing Land from a FEMA Special Flood Hazard Area** - By federal regulation, land can only be removed from a FEMA Special Flood Hazard Area by obtaining from FEMA a Letter of Map Change. No Permit for Development may be issued for land within the FEMA Special Flood Hazard Area, except as provided in this Section 6.8, unless a LOMA or LOMR is first obtained from FEMA. The property owner or Applicant must submit the application for a request for a LOMA or LOMR directly to FEMA. A LOMR-F shall not be used to remove land from the jurisdiction of the Flood Hazard Overlay District. No structure may be built on Filled areas unless that Structure would have been allowed in that location prior to the Fill being placed there. See Section 6.8.15.m) regarding limitations for use of a LOMR-F.

FEMA's jurisdictional determination regarding whether the area proposed for Development may be removed from the Special Flood Hazard Area will be based on a comparison of the Base Flood Elevation with certain FEMA-prescribed elevation information. The property owner or Applicant is required to submit application materials requesting a Letter of Map Change to the following (or current address at the time of application):

National Flood Insurance Program
Suite 200, 140 Wood Road
Braintree, MA 02184-2513
Phone: (781) 848-1908

**6.8.8 Required Permits in Flood Hazard Overlay District**

A Zoning Permit is required from the Administrative Officer for all Development in all areas within the Flood Hazard Overlay District. Development that requires a conditional use approval, change or expansion of non-conforming structures or use approval, or a variance from the DRB under Section 6.8 must have such approvals prior to the issuance of a Zoning Permit by the Administrative Officer. Any Development subject to municipal jurisdiction in the Flood Hazard Overlay District shall meet the criteria in Section 6.8.9 through Section 6.8.15. Any Zoning Permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

**6.8.9 Permitted Development by Administrative Officer Approval**

For the purposes of review under Section 6.8, the following Development activities require a Zoning Permit from the Administrative Officer, in keeping with the standards established:

**a)** Lawns and agricultural, horticultural, or silvicultural uses not involving Structures or wastewater or sewage systems.

**b)** Seasonal sales of farm produce, and related one story temporary Structures (not on the site for more than 180 consecutive days) which do not exceed 400 square feet of floor area and do not involve wastewater systems.

**c)** Parks, playgrounds and other outdoor recreational facilities not involving Structures.

**6.8.10 Conditional Use Approval by the DRB after a Public Hearing** -
Following the application procedure per Section 6.8.16, conditional use review and approval may be granted by the DRB for Development in the Flood Hazard Overlay District with a public hearing for the following:

**a) Outside of the Floodway**

i. Parking areas and driveways.
ii. Improvements to existing roads.
iii. Bridges, culverts, Channel management activities, or public projects which are functionally dependent on stream access or stream crossing.
iii. Structures that are accessory to residential Dwellings or to the permitted uses in Section 6.8.9 that do not require wastewater systems, including playground Structures.
iv. Recreational Vehicles that do not require wastewater systems.
v. Improvements or Substantial Improvements to existing Residential and Non-Residential Structures - Structures lawfully in existence as of the Effective Date may continue to exist and expand so long as the Improvement or Substantial Improvement does not result in an expansion of greater than 25% of the original Structure's Gross Floor Area.
vi. Replacement of Structures (including mobile homes) lawfully in existence as of the effective date of these regulations so long as the replacement does not result in an expansion of greater than 25% of the original Structure's Gross Floor Area.
vii. Building utilities (electrical equipment, well pump, water heater, etc,)
viii. State-approved new wastewater or replacement wastewater systems.
ix. State-approved new or replacement storage tanks for existing Structures.
x. New or replacement water supply systems.
xi. Grading, excavation, or the creation of a pond;
xii. Public utilities.

**b) Inside the Floodway**

i. Improvements to any existing Structures included in this section b).
ii. Bridges, culverts, Channel management activities, or public projects which are functionally dependent on stream access or stream crossing.
iii. Public utilities for which no reasonable alternative location exists.
iv. Dams or bank stabilization projects.
v. Drainage or Channel management projects authorized by the Vermont Agency of Transportation.
vi. At-grade parking involving no Fill.
vii. Replacement water supply or septic systems.
viii. Recreational vehicles.

Any Development inside the Floodway may occur only provided such uses and Structures do not increase the Base Flood in the FEMA Special Flood Hazard Area and meet other FEMA requirements for existing uses or Structures. An Engineering Report and Plan containing hydrologic and hydraulic analyses must prove that the proposed use or Structure will result in no increase in the Flood levels during the occurrence of the Base Flood. Any such uses and Structures allowed in the Floodway shall require approval by the DRB following a public hearing and shall be approved by FEMA and the Vermont Agency of Natural Resources.

**6.8.11 Prohibited Development** - No Development except that listed in Section 6.8.9 and Section 6.8.10 shall be permitted in the Flood Hazard Overlay District. Prohibited Development includes, but is not limited to:

**a)** New residential or non-residential Structures (including the placement of Manufactured homes);
**b)** Critical Facilities;
**c)** Storage and junk yards;
**d)** New Fill;
**e)** Accessory Structures in the Floodway; and
**f)** All Development not exempted, permitted, or conditionally permitted.

**6.8.12 Exempt Activities**

The following are exempt from regulation under Section 6.8:

**a)** The removal of a building or other Structure in whole or in part;
**b)** Maintenance of existing roads and storm water drainage;
**c)** Silvicultural (forestry) activities conducted in accordance with Vermont Department of Forest and Parks Acceptable Management Practices; and
**d)** Agricultural activities conducted in accordance with Vermont Agency of Agriculture, Food & Market's Accepted Agricultural Practice (AAP) Rules. Prior to the construction of Farm Structures, the farmer must notify the Administrative Officer in writing of the proposed activity, including the setbacks from adjoining property lines and road rights-of-way. The notice must contain a sketch of the proposed Structure including setbacks approved by the Secretary of Vermont Agency of Agriculture, Food & Markets.

If Farm Structures are determined to be exempt from regulation per Section 6.8.12, the Applicant will be issued a notice of exemption by the Administrative Officer. Any such exempt use must meet the requirements for the Flood-proofing of Structures in Section 6.8.15 and other requirements of the FEMA National Flood Insurance Program.

**6.8.13 Variances** – Variances to specific provisions of Section 6.8 shall be granted by the DRB only in accordance with 24 VSA Section 4469, Section 4424 (E), and 44 CFR Section 60.6 of the National Flood Insurance Program regulations, after a public hearing noticed as described in Section 8.4. Special provisions for variances for Development in the Flood Hazard Overlay District include the following:

**a)** Any variance issued in the Special Flood Hazard Area will not increase Flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a Structure below the Base Flood Elevation increases risk to life and property and will result in increased Flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.
**b)** A copy of such a variance shall be affixed to the deed of the property on file in the municipal clerk's office.

**6.8.14 Nonconforming Structures and Uses**

Special provisions regarding Nonconforming Structures and uses apply to Section 6.8. The general provisions of Section 4.7 and 4.9 shall also apply. The DRB, after public notice and hearing per Section 8.2, may approve the repair, relocation, replacement, or enlargement of a Nonconforming Structure within the jurisdiction of the Flood Hazard Overlay District provided that:

**a)** The proposed Development is in compliance with all the Development standards in Section 6.8.15;
**b)** A Nonconforming Structure that is Substantially Damaged or destroyed may be reconstructed only in circumstances when the Structure cannot be relocated to a less hazardous location on the parcel. The Lowest Floor of the reconstructed Structure must be rebuilt to one foot or more above the Base Flood Elevation, and the Structure must otherwise comply with all requirements of the National Flood Insurance Program;
**c)** Nonconforming Structures or uses shall be considered abandoned where such Structures or uses are discontinued for more than 12 months; and
**d)** An individual Manufactured home lot in an existing Manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement Manufactured homes must be placed so as to meet the Development standards in this district.

**6.8.15 Development Standards** – The criteria below are the minimum standards, if allowed under Section 6.8.9 and Section 6.8.10, for Development of land under the jurisdiction of the Flood Hazard Overlay District. Where more than one area is involved (i.e., the Floodway, FEMA Special Flood Hazard Area, or Flood Hazard Overlay District jurisdiction), the more restrictive standard shall apply.

**a)** All Development shall be:

i. Reasonably safe from Flooding;

ii. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the Structure;

iii. Constructed with materials resistant to Flood damage;

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

v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding;

vi. Adequately drained to reduce exposure to Flood hazards;

vii. Located so as to minimize conflict with changes in Channel location over time and the need to intervene with such changes; and,

viii. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the Base Flood Elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

**b)** Existing Structures to be Substantially Improved or replaced shall be:

i. Located such that the Lowest Floor is elevated a minimum of one foot above the Base Flood Elevation, also known as the First Floor Elevation. This must be documented, in as-built condition, with a FEMA Elevation Certificate. Dry Flood proofing on non-residential Structures is not acceptable.

ii. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the Structure.

iii. Constructed with materials resistant to Flood damage.

iv. Constructed by methods and practices that minimize Flood damage.

v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding (see FEMA technical bulletins for guidelines).

vi. Adequately drained to reduce exposure to Flood hazards.

vii. For fully enclosed areas below the Lowest Floor –

1. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any Zoning Permits.
2. Be designed to automatically equalize hydrostatic Flood forces on exterior walls by allowing for the entry and exit of Floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of Floodwaters.

Any application for Development within the Flood Hazard Overlay District for a proposed improvement to or replacement of an existing Structure requires: 1) an appraisal of the existing Structure from a licensed appraiser or current town assessment (or alternative method approved by the DRB); and 2) a cost estimate from a contractor who is independent of the Applicant.

**c)** All new Accessory Structures shall have the Lowest Floor elevated to a minimum of one foot above the Base Flood Elevation, also known as the First Floor Elevation, and shall be:

i. Designed or modified to be adequately anchored to prevent flotation, collapse or lateral movement of the Structure during the occurrence of the Base Flood. Materials used in the

construction shall be resistant to Flood damage and the methods of construction used shall be those that minimize Flood damage.

ii. A Zoning Permit 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 all FEMA Flood proofing provisions.

**d)** Small Accessory Structure smaller than 500 square feet as measured by the Gross Floor Area that represents a minimal investment need not be elevated to the Base Flood Elevation provided the Structure:

i. Shall be used only for parking or storage of non-hazardous material.

ii. Shall be designed to have low Flood damage potential.

iii. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of Floodwaters.

iv. Shall provide 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. 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.

v. Shall be firmly anchored to prevent flotation.

vi. Shall have service facilities, such as electrical and heating equipment, elevated or Flood proofed to at least one foot above Base Flood Elevation.

**e)** Recreational Vehicles shall be:

i. On the site for fewer than 180 consecutive days, and fully licensed and ready for highway use; or

ii. Permitted in accordance with the elevation and anchoring requirements for "Manufactured homes" in **o)** below.

**f)** Replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems.

**g)** Replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during Flooding.

**h)** 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.

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

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

**k)** Parking areas and driveways built above grade shall be designed by a licensed engineer to minimize or eliminate the potential for Flooding and loss or damage associated with Flooding. *(See subsection m) regarding Filling.)*

**l)** Public roads and public bridges shall be designed to be adequately anchored to prevent flotation, collapse, or lateral movement of the Structure during the occurrence of the Base Flood. *(See subsection m) regarding Filling.)*

**m)** Soil, or Fill, can be moved from one place to another within the Special Flood Hazard Area outside of the Floodway, on a Lot or between adjoining Lots, if there is no net loss in the Floodwater holding capacity of the land. Soil can only be moved in support of an allowed use as described in Sections 6.8.9 and 6.8.10. Fill shall not be used to raise land elevations and remove land from the Flood Hazard Overlay District for Development not allowed in the Flood Hazard Overlay District, and the Town of Richmond shall not approve or consent to a Letter of Map Revision based on Fill (LOMR-F) for this purpose.

**n)** New subdivision Developments, planned unit Developments, or Manufactured home parks of more than 5 acres or 50 lots, whichever is less, shall:

i. Include Base Flood Elevation data.

ii. Minimize Flood damage within the Flood-prone area.

iii. Provide adequate drainage to reduce exposure to Flood hazards.

iv. Locate and construct utilities and facilities, such as sewer, gas, electrical, and water systems, so as to minimize or eliminate Flood damage.

**o)** Manufactured homes to be replaced or substantially improved that are:

i. 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 to at least one foot above the Base Flood Elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the Base Flood.

ii. Located in an existing Manufactured home park (created before the FIRM), where elevating a replacement home to or above Base Flood Elevation is *not possible*, the Lowest Floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to resist flotation, collapse, and lateral movement.

**p)** No structure may be cantilevered to extend over an area within the Flood Hazard Overlay District.

**q)** Special provisions within the Floodway:

i. Encroachments or Development above grade and below the elevation of the Floodway are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed Development will:

1) Not result in any increase in Flood levels (0.0 feet) during the occurrence of the Base Flood;

2) Not increase any risk to surrounding properties, facilities, or Structures from erosion or Flooding.

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

iii. Soil or Fill may not be moved from one place to another.

### 6.8.16 Administration

**a)** Application Submission Requirements

When a complete application for proposed Development is received, the Administrative Officer shall make a Flood Hazard Overlay District jurisdictional determination, per Section 6.8.6. No action shall be taken on a Development application by the Administrative Officer or DRB until a Flood Hazard Overlay District jurisdictional determination has been completed. Per Section 6.8.6, once the jurisdictional determination has been issued and the proposed Development is determined to be under the jurisdiction of the Flood Hazard Overlay District, the Administrative Officer shall assess whether the proposed uses and/or Structures are permitted under Section 6.8.9 through Section 6.8.15.

For all proposed Development in the Flood Hazard Overlay District, the application for Development shall be in compliance with all requirements for “Permits and Approval” within Section 5 and with all provisions contained in Section 6.8 for the Flood Hazard Overlay District. The Applicant shall provide an additional set of all application materials, to comply with Section 6.8.16.b).

i) Applications for proposed Development seeking approval by the Administrative Officer submitted per Section 6.8.9 must include the following information:

1. Site plan drawn to scale with survey quality or accurate measurement showing all proposed Development including sketch of proposed Farm Structure;
2. Plan for Flood-proofing of Structures;
3. Copy of approval by Vermont Agency of Agriculture, Food and Market’s Accepted Agricultural Practice Rules for agricultural and silvicultural uses;
4. Any information that the Administrative Officer deems necessary.

ii) Applications for proposed Development seeking approval by the DRB submitted per Section 6.8.10 require at least one public hearing per RZR Section 8.2.3 and Section 8.2.4 and require at a minimum the following information:

1. Site plans in triplicate drawn to survey quality or accurate measurement showing:
   A. The nature, location, dimensions and elevation of the area proposed for Development prepared by a Vermont licensed land surveyor or engineer;
   B. All water bodies, Special Flood Hazard Areas, Floodways, the Base Flood Elevations at the site, the shortest 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, and the elevation of the proposed Lowest Floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. FEMA Elevation Certificate for Existing Structures depicting their First Floor Elevation in relation to mean sea level (a FEMA Elevation Certificate);
3. Proposed New Construction including First Floor Elevation in relation to Base Flood Elevation;
4. Plans showing proposed areas and extent of Filling, dredging or grading;
5. Plans showing all materials proposed for outdoor storage, including types of materials and storage locations;
6. If proposed, locations of any existing and proposed driveways, streets and parking areas;
7. Vermont Agency of Natural Resources listing of all needed state and federal permits;
8. Proposed Flood Proofing measures;
9. Relationship of improvements to the river bank;
10. Copy of FEMA Letter of Map Change, “Contour Interpolation” Study, or Engineering Report and Plan;
11. For Channel relocation, a profile showing the slope of the bottom on the Channel of the flowline of the stream and the extent to which the Channel is to be relocated shall also be provided.
12. Information shall be provided that demonstrates that the proposed Development meets the requirements for the underlying zoning district in effect, in addition to the requirements imposed within the Flood Hazard Overlay District. These requirements include but are not limited to permitted and conditional uses, Building setbacks, Lot coverage, Building Heights, etc. for the underlying zoning district.
13. If the request is an appeal for a variance, then the appeal application must include responses to the criteria set forth in 24 VSA §4469 and §4424(E) and CFR 60.6.

**b)** Referral to Agency of Natural Resources –

When an application for proposed Development within the FEMA Special Flood Hazard Area is deemed complete, the Administrative Officer shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A Zoning Permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

In instances when a Letter of Map Change has been issued by FEMA for an area with proposed Development, the provisions of this Section 6.8.16.b) shall not apply.

If the applicant is seeking a Zoning 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 Zoning 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.

**c)** Decisions
The DRB shall consider comments from the NFIP Coordinator at the Vermont Agency of Natural Resources. The DRB may recess the proceedings on any application pending submission of additional information.

**d)** Administrative Officer Records - The Administrative Officer shall properly file and maintain a record of:

i. All Zoning Permits issued in areas covered by these Zoning Regulations;
ii. An Elevation Certificate with the as-built elevation (consistent with the datum for the elevation on the current Flood Insurance Rate Maps for the community) of the Lowest Floor, including Basement, of all new Structures, substantially improved Structures, or Flood proofed Structures (not including accessory Structures), in the Flood Hazard Overlay District, including the FEMA Special Flood Hazard Area;
iii. All Flood proofing and other certifications required under this regulation; and
iv. All decisions of the Administrative Officer and the DRB (including variances and Violations) and all supporting findings of fact, conclusions, and conditions.

### 6.8.17 Certificate of Occupancy

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or Structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or Structure within Special Flood Hazard Area until a certificate of occupancy is issued by the Administrative Officer, stating that the proposed use of the Structure or land conforms to the requirements of these regulations. A certificate of occupancy is not required for Structures that were built in compliance with these regulations at the time of construction and have not been improved since the Effective Date. Within 14 days of the receipt of the application for a certificate of occupancy, the Administrative Officer shall inspect the premises to ensure that all required local, State, and federal permits have been acquired and all that all work has been completed in conformance with the Zoning Permit and associated approvals. If the Administrative Officer fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15$^{th}$ day.

### 6.8.18 Enforcement and Penalties

**a)** It shall be the duty of the Administrative Officer to enforce the provisions of Section 6.8 under 10 VSA §1974a, 24 VSA §4451 and §4452, including Section 8.3. Upon determination that a Violation exists, the Administrative Officer shall institute appropriate action in accordance with the provisions of 24 V.S.A. Chapter 117. A copy of any notice of Violation shall be mailed to the State NFIP Coordinator.

**b)** If the Violation occurs in the areas within the FEMA Special Flood Hazard Area and remains after all appeals have been resolved, the Administrative Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of Flood insurance for the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**c)** If the Violation occurs in the area outside the FEMA Special Flood Hazard Area but within 100 feet of the outside edge of the FEMA Special Flood Hazard Area, the Administrative Officer shall follow the provisions of 24 V.S.A. §1974a , 24 V.S.A. §4451, or 24 V.S.A. § 4452 to correct the Violation.

**d)** Violations of the Accepted Agricultural Practices shall be enforced as Violations of these Zoning Regulations. Such Violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

## 6.9 Wetlands

No building, roadway or septic system shall be constructed within 100 feet of a Class I wetland and within 50 feet of a Class II wetland. Classifications of wetlands are established by the State of Vermont.

In addition, no draining, dredging, filling, or alteration of the water flow shall occur within 50 feet of Class I and Class II wetlands, unless such use has been approved by the Vermont Department of Environmental Conservation's Wetlands Section through the issuance of a Conditional Use Determination.

## 6.10 Water Supply Source Protection Area

All Land Development within the municipal water supply source protection area is governed by the Town of Richmond's Water Supply Source Protection Ordinance. Contact the Administrative Officer for location of the Protection Area and requirements of the Ordinance.

## 6.11 Steep Slopes

Any proposed construction on land with a slope of over 20% shall be required to submit engineering plans for adequate erosion control and safe construction methods as part of a complete application for the proposed use, activity or structure. An access must be provided which meets the Vermont Agency of Transportation's B-71 Standards and local requirements, and if conflicting, the stricter apply.

## 6.12 Wireless Telecommunications Facilities

Wireless Telecommunications Facilities shall include those of all wireless telecommunications service providers, licensed and/or regulated by the Federal Communications Commission (FCC), and associated equipment and buildings.

**Purpose** - The purpose of Section 6.12 is to protect the characteristics of our zoning districts, aesthetics, safety and general welfare of the Town of Richmond while accommodating the communication needs of residents and businesses. This section is intended to strike an appropriate balance between the interests of private landowners and other residents. This section shall:

- **a)** Preserve the character and appearance of the Town of Richmond while allowing adequate telecommunications services to be developed.
- **b)** Protect the scenic, historic, environmental, and natural resources of the Town of Richmond.
- **c)** Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers.
- **d)** Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate.
- **e)** Facilitate the provision of telecommunications services to the residences and businesses of the Town of Richmond.
- **f)** Minimize the adverse visual effects of towers and antennas through collocation, careful design, siting, landscaping, screening, and innovative aesthetic mitigation standards.

### 6.12.1 Authority

Pursuant to the Act [§4414(12)] the DRB of the Town of Richmond is authorized to review, approve, conditionally approve, and deny applications for telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to the Act (24 V.S.A. §4440) and Section 5.2.1, the DRB is authorized to hire qualified persons to conduct an independent technical review of applications and to require the Applicant to pay for reasonable costs thereof.

### 6.12.2 Consistency with Federal Law

In addition to other findings required by Section 6.12, the DRB shall find that its decision regarding an application is consistent with federal law, particularly the Telecommunications Act of 1996. This section does not:

**a)** Prohibit or have the effect of prohibiting the provision of personal wireless services;
**b)** Unreasonably discriminate among providers of functionally equivalent services; or
**c)** Regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with FCC regulations concerning such emissions.

Notwithstanding restrictions imposed by Section 6.12, an Applicant may obtain a Zoning Permit if the Applicant establishes that the denial of any application because of any provision of this section would be inconsistent with the Telecommunications Act of 1996. To assert that the application of this section would be inconsistent with the Telecommunications Act of 1996, an Applicant must provide written notice of such assertion as part of its written application. The notice must: 1) specify the basis for the claim of inconsistency; 2) establish that there are no alternative sites (including sites controlled by others at the time of the application) within the Town of Richmond that could serve as an alternative to the application and comply with this section; and 3) provide a statement of any facts that the Applicant intends to provide to support its assertions of inconsistency between this section and the Telecommunications Act of 1996. The Applicant will bear the burden of proving any claim that the application of this section would be inconsistent with the Telecommunications Act of 1996. The DRB may approve a Zoning Permit that is inconsistent with this section only to the extent required to comply with the Telecommunications Act of 1996.

### 6.12.3 Definitions and Technical Standards

Some of the following terms do not appear in the text of this section. If a defined term is not used in the text of this section, it serves the purpose of providing a technical standard that may prove relevant in some proceedings under these Zoning Regulations.

***Adequate Capacity***: Capacity is considered to be "adequate" if the grade of service (GOS) is 98% or higher (i.e. Blocking of 2% or lower) during Busy Hour Traffic, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered total daily traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

***Adequate Coverage***: Coverage for wireless telephony is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that 90% of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least –90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

***Affiliate***: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

***Alternative Design Tower Structure***: Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).

***Antenna***: A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

***Antenna Height***: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the base of the support structure shall be used in calculating the antenna height.

***Antenna Support Structure***: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

***Applicant***: A person who applies for a wireless telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.

***Available Space***: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

***Base Station***: The primary sending and receiving site in a wireless telecommunications facility network. More than one base station and/or more than one variety of wireless telecommunications provider can be located on a single tower or structure.

***Blocking:*** Blocking is the failure of calls due to insufficient line availability. For the purpose of Erlang B calculations, Blocking is expressed as the fraction of failed calls. For example, Blocking of 2% means 2 calls dropped for every 100 attempted and equates to a Grade of Service of 98%.

***Bulletin 65***: "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance. OET Bulletin 65 Edition 97-01 dated August, 1997 unless further revised by the FCC.

***Busy Hour Traffic***: BHT (in Erlangs) is the number of hours of call traffic there are during the busiest hour of operation of a telecommunication facility.

***Cell Site***: A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with and ancillary to cellular communications transmission.

***Cellular Service***: A wireless telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

***Cellular Telecommunications***: A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

***Cellular Telecommunications Facility***: Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

***Channel***: The segment of the radio frequency spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

***Collocation***: Locating wireless telecommunications equipment from more than one provider on a single site. Collocation also means the mounting or installation of an antenna on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

***Common Carrier***: An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

***Communication Equipment Shelter***: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

***Communication Tower***: A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

***Communications Facility***: A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

***dBm***: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

***Directional Antenna***: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

***Dish Antenna***: A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

***Electromagnetically Able***: The determination that the signal from and to the proposed new antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified radio frequency engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

***Erlang:*** An international unit created to measure telephone use. One Erlang is equivalent to one caller talking for our hour on one telephone.

***Erlang B Calculations***: The Erlang B traffic model is used to mathematically relate Busy Hour Traffic (BHT), call Blocking, and the number of Lines in a trunk group. For the purposes of this document, Erlang B Calculations are used to verify Adequate Capacity.

***Facility Site***: A property, or any part thereof, which is owned or leased by one or more wireless telecommunications facility(s) and where required landscaping is located.

***FCC***: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

***Frequency***: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

***GHz***: Gigahertz. One billion hertz

***Grade of Service***: GOS is an estimate of customer satisfaction with a particular aspect of service such as noise, echo, or blocking. For the purposes of this document, GOS refers to the percentage of calls that are blocked in the radio portion of the wireless network. A GOS of 98% equates to 2 dropped calls for every 100 attempted calls.

***Hertz***: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

***Location***: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

***MHz***: Megahertz, or one million hertz.

***Microcell***: A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

***Microwave***: High-frequency radio frequency emissions, including UHF and extending to infrared frequencies.

***Microwave Antenna***: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

***Monitoring***: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities.

***Monopole***: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

***Omnidirectional Antenna***: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

***Permit***: Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.

***Personal Communications Services (PCS)***: Digital wireless telephone technology such as portable phones, pagers, faxes, and computers; generally operates at high frequencies.

***Personal Wireless Services***: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

***Preexisting Towers and Antennas***: Any tower or antenna for which a permit has been issued prior to the effective date of these Zoning Regulations.

***Radiated-Signal Propagation Studies or Coverage Plots***: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining whether the telecommunications equipment will provide adequate coverage for that site.

***Repeater***: A receiver/relay transmitter and antenna, often of relatively low power output, designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

***Roof and/or Building Mount Facility***: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

***Scenic View***: A scenic view is a wide angle or panoramic field of sight and may include natural and/or human made structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object, or to Open Space.

***Self-Supporting Tower***: A communications tower that is constructed without guy wires.

***Spectrum***: Relating to any transmissions or reception of electromagnetic waves.

***Stealth Facility****:* Any communications facility that is designed to blend into the surrounding environment to the extent that it becomes invisible to the naked eye at or beyond the property line. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements. (See also Alternative Design Tower Structure.)

***Structurally Able***: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

***System***: The communications transmission system operated by a telecommunications service provider in the municipality or region.

***Telecommunications Provider***: An entity authorized by the FCC, the Vermont Public Service Board, or law to provide telecommunications services to individuals or institutions.

***Temporary Wireless Communication Facility***: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

***Tower***: A vertical structure for mounting antenna(s) that provide telecommunications services. A tower shall also mean any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

***Unlicensed Wireless Services:*** The offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

***View Corridor***: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

***Whip Antenna***: A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

***Wireless Telecommunications Facility***: All equipment (including repeaters) and locations of equipment with which a wireless telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity. This term includes all types of towers defined or described in Section 6.12. This term includes all of the physical facilities defined or described in this section. Consumer model television satellite dishes are not covered by these Zoning Regulations.

### 6.12.4 Permitted and Prohibited Locations

A Stealth Facility may obtain a Zoning Permit as a conditional use in all zoning districts.

All other Wireless Telecommunications Facilities may obtain a Zoning Permit as a conditional use in the following zoning districts: Residential/Commercial; Commercial; Industrial/Commercial; Village Commercial;

and Gateway Commercial. Wireless Telecommunications Facilities (other than Stealth Facilities) are prohibited from all other districts.

Even in districts where they may be located as conditional uses, Wireless Telecommunications Facilities that do not qualify as Stealth Towers may not be sited in any of the following locations:

- **a)** Within 300 feet horizontally from any property or district listed on the National Register of Historic Places.
- **b)** Closer than 50 feet horizontally to the boundary of the property on which it is located.
- **c)** If it is higher than 40 feet, closer than its actual height plus 10 feet horizontally to the boundary of the property on which it is located.
- **d)** Closer than 300 feet horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence.
- **e)** Within 100 feet horizontally of any pond, river or perennial stream, and within 50 feet of any intermittent stream.
- **f)** Within 300 feet horizontally of a public road**.**
- **g)** Where its height would exceed the average height of the surrounding forest within 200 feet of its base by more than 20 feet, as measured by reference to the expected height of the forest at maturity.
- **h)** On a ridgeline or hilltop with an elevation of more than 900 feet, at a location where its height would exceed the height of that ridgeline or hilltop, as measured at the nearest point to the facility. Instead, it should be located (assuming that all other criteria are met) sufficiently below the height of the ridgeline or hilltop so that its height does not protrude above the ridgeline or hilltop in its immediate vicinity. This requirement is in addition to the requirements of Section 6.12.8 of these Zoning Regulations.

If located in or near Open Space (i.e., as defined in these Zoning Regulations), the Applicant must demonstrate that the Wireless Telecommunications Facility has been sited to be as unobtrusive as feasible.

The purposes of these siting requirements are to preserve the pattern of development promoted by the various zoning districts; protect aesthetic interests and water quality of the Town; and to provide adequate separation from existing development of what are fundamentally commercial structures.

All distances specified in this section shall be calculated including antennas and other vertical appurtenances. Waivers to the above setback requirements may be granted to encourage antenna collocation on existing towers. The DRB may grant a request for a waiver only if it finds that the waiver will not have the effect of nullifying the intent and purpose of Section 6.12, and that it has required other conditions that will secure the objectives of the waived requirements.

### 6.12.5 Exemptions and Applicability of Other Regulations

This Section (6.12) specifically exempts the following Wireless Telecommunications Facilities: police, fire, ambulance and other emergency dispatch; licensed amateur (ham) radio; citizens band radio; and radio dispatch services licensed by local businesses, provided that the antenna support structure (including any building that forms part of the antenna support structure) does not exceed 65 feet above grade and the attached antenna is no higher than required for reasonable use, or it is a Stealth Facility. Wireless Telecommunications Facilities exempted from this section under this paragraph must comply with all other applicable provisions of the Richmond Zoning Regulations, Subdivision Regulations, and other bylaws. If the antenna support structure exceeds the heights specified herein, the facilities described in this sub paragraph must comply with this section. No wireless telecommunications facility shall be deemed exempt from this section because it is proposed that said facility share a tower or other structure with such exempt uses.

All facilities subject to this section must comply with all other applicable provisions of the Richmond Zoning Regulations, Subdivision Regulations, and other bylaws, in addition to complying with this section.

### 6.12.6 Application Requirements for Wireless Telecommunications Facilities

An Applicant for all Wireless Telecommunications Facilities must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of Wireless Telecommunications Facility shall commence without a Zoning Permit first being obtained from the DRB.

In addition to information otherwise required in these Zoning Regulations, Applicants for all Wireless Telecommunications Facilities shall include the following supplemental information:

**a)** The name and address of the Applicant, the record landowners and any agents of the landowners or Applicants as well as an Applicant's registered agent and registered office. If the Applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.

**b)** The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.

**c)** The names and addresses of the record owners of all abutting property.

**d)** A report from qualified engineers and/or licensed land surveyors that:

i. Describes the facility height, design and elevation.

ii. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas, and that the antennas' height are no higher than required for the provision of reasonable service.

iii. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the Applicant expects the tower to accommodate.

iv. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures within 5 miles of the proposed site cannot reasonably be modified to provide adequate coverage and/or adequate capacity to the Town of Richmond. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable. The report shall also demonstrate that the tower's height is no higher than required for the provision of reasonable service.

v. Demonstrates that the Applicant has analyzed the feasibility of using repeaters or micro-cells in conjunction with all facility sites listed in compliance with Section 6.12.6 D. iv. (above) to provide adequate coverage.

vi. Describes the operating frequency and/or channels, sector orientation and power output per channel for each proposed antenna.

vii. Includes a written explanation for the use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.

viii. Demonstrates the tower's compliance with structural standards and the Town of Richmond setbacks for towers and support structures.

ix. Provides assurance that at the proposed site the Applicant will be in compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The DRB may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.

x. Includes other information requested by the DRB that is necessary to evaluate the request.

xi. Includes an engineer's stamp and registration number, where appropriate.

xii. Includes a letter of intent committing the facility owner and his or her successors to permit shared use (collocation) of the facility if additional users agree to reasonable terms and conditions for shared use.

**e)** For a facility to be installed on an existing structure, a copy of the Applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).

**f)** To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.

**g)** A copy of the application or draft application for an Act 250 permit, if applicable.

**h)** Copies of correspondence between the Applicant and all State and Federal regulatory agencies regarding the proposed facility prior to and during the DRB review process.

The permit application shall be signed under the pains and penalties of perjury.

### 6.12.7 Site Plan Requirements for Wireless Telecommunications Facilities

In addition to site plan requirements found in Section 5.5.3, site plans for Wireless Telecommunications Facilities subject to this Section 6.12, including applications subject to conditional use review, shall include the following supplemental information:

**a)** Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.

**b)** Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, Historic Sites and habitats for endangered species. 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.

**c)** Proposed site plans of the entire development indicating all Land Development including landscaping, utility lines, guy wires, screening and roads.

**d)** Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

**e)** Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

**f)** In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.

**g)** Construction sequence and time schedule for completion of each phase of the entire project.

Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

### 6.12.8 Collocation Requirements

An application for any new Wireless Telecommunication Facility shall not be approved unless the DRB finds that the facilities planned for the proposed structure cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

**a)** The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

**b)** The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer, and such interference cannot be mitigated at a reasonable cost.

**c)** The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.

**d)** Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer.

**e)** Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

**f)** There is no existing or approved tower in the area in which coverage is sought.

**g)** Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

Towers shall be designed structurally, electrically and in all respects to accommodate both the Applicant's antennas and additional antennas when overall permitted height allows.

### 6.12.9 Access Roads and Above Ground Facilities

Where the construction of new facilities subject to this section (6.12) requires construction of, or improvement to, access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields to the extent practicable. Utility or service lines shall be underground. The Town may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same, and where maintenance personnel can reasonably access the facility site on foot.

### 6.12.10 Tower and Antenna Design Requirements

Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, major view corridor, named river, or public roadway. Height and mass of facilities shall not exceed that which is essential for its intended use and public safety.

**a)** Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Administration (FAA), state or federal authorities have dictated color. Use of Stealth Design or Alternative Design Structure may be required in visually sensitive locations.

**b)** In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 200 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the DRB that the additional height is necessary in order to provide Adequate Coverage in the Town of Richmond (or to accomplish collocation of facilities) and that the additional height will not cause an undue, adverse visual impact on the scenic character or appearance of the area.

**c)** Towers, antennas and any necessary support structures shall be designed to avoid having an Undue Adverse Effect regarding aesthetic impact on scenic Open Space, prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the DRB will consider:

i. the period of time during which the proposed tower would be viewed by the traveling public on a public road;
ii. the frequency of the view experienced by the traveling public;
iii. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
iv. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
v. the distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
vi. the sensitivity or unique value of a particular view affected by the proposed tower;
vii. significant disruption of a view shed that provides context to a historic or scenic resource.
viii. the provisions of the Richmond Town Plan.

The DRB shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the DRB may require an Applicant to consider alternative sites, or demonstrate why no such sites are technically feasible.

**d)** All buildings and structures accessory to a tower shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this section (6.12).

**e)** Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and, in the case of towers, shall have the potential to grow to a height at maturity that will be within 20 feet of the highest point of the tower and its attached antennas. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

### 6.12.11 Amendments to Existing Telecommunications Facility Permit

Any material alteration or addition to a Wireless Telecommunications Facility shall require a permit amendment, including when any of the following are proposed:

**a)** Change in the number, design or configuration of buildings or facilities permitted on the site; or

**b)** Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

### 6.12.12 Tower Lighting and Signage; Noise Generated by Facility

Unless required by the FAA, no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the Applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. The Applicant shall submit copies of required FAA applications. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on a tower. Signage shall be limited to that required by federal or state regulation.

Noise at the site perimeter from the operation of any machinery or equipment shall be minimized and shall comply with all performance standards of these Zoning Regulations.

### 6.12.13 Temporary Wireless Communication Facilities

Any telecommunications facility designed for temporary use is subject to the following:

**a)** Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Administrative Officer.

**b)** Temporary telecommunications facilities are permitted for no longer than five days use in conjunction with a special event.

**c)** The maximum height of a temporary facility is 50 feet from grade.

**d)** Temporary facilities must comply with all applicable portions of these Zoning Regulations.

### 6.12.14 Continuing Obligations

It shall be a condition of every permit that the permittee shall annually demonstrate compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for such representations in a filing on January 15 of each year with the Administrative Officer. The DRB may also require the filing of information on an annual or more frequent basis to assure the compliance with permit conditions and these Zoning Regulations.

### 6.12.15 Facility Removal

Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

**a)** The owner of a facility/tower shall annually, on January 15, file a declaration with the Administrative Officer certifying the continuing safe operation of every facility/tower installed subject to these Zoning Regulations, compliance with the provisions of the permit and compliance

with the representations of the permit application. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.

**b)** Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the DRB. In the event the tower is not removed within 180 days of the cessation of operations at a site, the Town shall notify the owner and may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or tower owner.

**c)** The Applicant shall, as a condition of the conditional use permit, provide a financial surety bond payable to the Town of Richmond and acceptable to the DRB and Selectboard to cover the cost of removal of the facility and remediation of the landscape.

**d)** The annual declaration must be accompanied by a certificate of insurance and a review and filing fee as established by the Richmond Selectboard. Any annual declaration received after January 15 must be accompanied by an additional late filing fee, plus interest at the legal rate for each day that the filing fee and the penalty remain unpaid.

### 6.12.16 Maintenance Requirements

The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event the Applicant fails to maintain the facility, the Town of Richmond may, but is not obligated to, undertake such maintenance at the expense of the Applicant or landowner.

### 6.12.17 Insurance Requirements

The facility owner shall maintain adequate insurance on all facilities. A certificate of insurance must accompany each annual declaration.

### 6.12.18 Fees

Fees for filing an application to build or alter any facility subject to these Zoning Regulations shall be as established by the Richmond Selectboard, in accordance with the Act (§4440), payable to the municipality. Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

# 7. DEFINITIONS

## 7.1 General

When not consistent with the context, words used in the present tense include the future and words in the singular number include the plural number.

The word "shall" is mandatory. The word "may" is permissive. The word "used" includes the words "arranged," "designed," or "intended to be used;" the term "occupied" includes the words "designed," or "intended to be occupied."

Unless otherwise defined herein, definitions contained in the Title 24 Vermont State Statutes Annotated, Chapter 117 shall be applicable throughout these Zoning Regulations.

## 7.2 Specific

For the purpose of these Zoning Regulations, certain words and terms are hereby defined as follows:

**Accepted Agricultural Practice** - An agricultural practice as defined by the Vermont Secretary of Agriculture, Food and Markets, to include the construction of a farm building, which is exempted from these Zoning Regulations in accordance with the Act (§4413). Farm Structures, however, must meet all setback requirements under these Zoning Regulations unless specifically waived by the Secretary, See also Farm Structure.

**Accepted Silvicultural Practice** - A silvicultural (forestry) practice, as defined by the Vermont Commissioner of Forests, Parks and Recreation, which is exempted from these Zoning Regulations in accordance with the Act (§4413). See also Silviculture.

**Accessory Dwelling** - One accessory dwelling per lot includes efficiency or one-bedroom apartment that is located within or appurtenant to, and is clearly subordinate to, a single-family dwelling; is on the same lot as the single-family dwelling; has the facilities and provisions necessary for independent living, including sleeping, food preparation, and sanitation; and that also meets the requirements of these Zoning Regulations (see Section 5.9), in accordance with the Act (§4412).

**Accessory Uses or Structures** - A use or structure on the same lot with and of a nature which is customarily incidental and subordinate to the principal use or structure.

**Act, The** - The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117, Vermont Statutes Annotated (V.S.A.), as subsequently amended. If any provision of these Zoning Regulations are or become inconsistent with the Act, the Act shall control.

**Adaptive Use** - The development of a new use for an older building or for a building originally designed for a special or specific purpose.

**Adjoining Property Owner** – Owners of properties adjoining the property subject to Land Development, including the owners of properties which would be contiguous to the property subject to Land Development but for the interposition of a road or highway or other public right-of-way.**Administrative Officer** – The Administrative Officer administers the Zoning Regulations and shall not permit any Land Development that is not in conformance with these regulations. The term also includes the Interim Administrative Officer and the Assistant Administrative Officer.

**Affiliated Ownership or Control** - Any legal or equitable title interest to lands held by individuals or entities affiliated with each other for profit or other consideration. A legal or equitable title interest held by an individual's spouse, civil union partner, natural or adopted children, parents, or siblings, and the spouse or civil union partner of an individual's parents, children or siblings, shall be presumed to be affiliated ownership *unless* satisfactory evidence is provided that such person will not derive any profit or other consideration from the contiguous lands.

The following rules shall apply in determination of whether certain types of ownership interests are affiliated:

a) a stockholder in a corporation which holds the legal or equitable title interest shall be presumed to be affiliated if the stockholder and the stockholder's spouse, civil union partner, natural or adopted children, parents, and siblings own, control or have a beneficial interest in more than five percent (5%) of the outstanding shares in the corporation
b) an individual who owns the legal or equitable interest solely as an agent of another, such as a court appointed guardian, a licensed attorney, or similar agency relationship, shall not be deemed affiliated unless the compensation received or other consideration obtained as a result of those duties indicates more than an agency relationship;
c) a seller or chartered lending institution holding a legal or equitable title interest as security for money loaned to the individual shall not be deemed to be affiliated.

**Agriculture** - The use of property or structures for common farming-related activities necessary for crop and animal production. A plant or tree nursery shall be deemed an agricultural related activity. This definition means to include the sale of agricultural products or byproducts on agricultural property. See also Accepted Agricultural Practices, Farm Structure.

**Alteration, structural** - Any change in the supporting or load-bearing members of a building such as load-bearing walls, columns, beams, girders or floor joists, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height

**Amusement Arcade** - An indoor or outdoor area, open to the public, that contains coin-operated games, rides, shows, and similar entertainment facilities and devices.

**Applicant** – person who applies for Zoning Permit on behalf of the property owner. The applicant may be the property owner.

**Approved** - Sanctioned by the appropriate official as required by law so long as all provisions of these Zoning Regulations are met.

**Artist/Crafts Studio** - An interior enclosed space where art work and crafts are created then displayed and/or sold by the individual(s) working within the same space without any off-site production or re-sale of products from other locations. This type of activity includes, but is not limited to, the following: painter, sculptor, and photographer.

**Automobile and/or Marine Sales** - The use of any building, land area, or other premise for the display and sale of new or used automobiles or marine vessels 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.

**Automobile Service Station** - Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. This definition does not include any other uses, such as restaurants, deli's, car washes, etc. which may only be allowed under separate review and approval under these Zoning Regulations.

**Bank** - shall mean any financial institution involved in the direct deposit or withdrawal of funds or a structure which houses facilities to deposit or withdraw funds electronically.

**Basement** – Any area of a building having its floor elevation below ground level on all sides.

**Bed and Breakfast** - An owner inhabited residential structure with six or fewer rooms for rent by the day or the week.

**Bikeway** - A roadway for non-motorized bicycles.

**Buffer** - Undisturbed naturally occurring vegetation which may be initially created and planted for screening or environmental purposes.

**Building** - A structure having a roof and used or occupied by persons or animals.

**Business, Retail** - Building or portion of building where the principal activity is the offering of goods and/or services at retail cost, or for a rental fee (such as video tape rental).

**Business Yard** - A business which operates out of a yard which may include structures, indoor and outdoor storage of materials, equipment or vehicles. Customary accessory uses for the business are small office space and vehicle and equipment repair. A majority of the business activity shall take place off-site. No assembly is involved or allowed.

**Bylaws** - The Town of Richmond Zoning Regulations, Town of Richmond Subdivision Regulations, and any official map adopted under the authority of 24 V.S.A., Chapter 117.

**Car wash** - Any facility whose principal business is the cleaning and washing of vehicles of any type, or a facility which provides two (2) or more bays for the washing of vehicles by the customer or for hire by the business.

**Catering services** - Any facility which prepares food for delivery and consumption off the premises.

**Cemetery** - Property used for the interring of the dead.

**CFR** - The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government (www.gpoaccess.gov/cfr).

**Child Care Home** – A family child care home or facility where the owner or operator is to be licensed or registered by the state for child care. In accordance with the Act (§4412), a family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property. A family child care home, as defined in VSA 4902(3)(c), serving no more than six full-time children and four part-time children shall be considered to constitute a permitted use of property.

**Commercial Use** - Activity involving the sale of goods or services carried out for profit.

**Commercial, Multi-use** - Activity involving the sale of goods or services carried out for profit in conjunction with two or more types of commercial activities on the same lot.

**Communication Use** - Establishments and structures furnishing point-to-point communication services, whether by wire or radio, either aurally or visually, including radio and television broadcasting stations, satellite relay stations, telephone communications, radar and the exchange or recording of messages.

**Contiguous Lands** - Contiguous lands are described as one or more of the following:

a) Lands which have in common one or more linear parts on any boundary.
b) Lands which, prior to the Effective Date of these Zoning Regulations, are divided by easements or interests of less than fee simple ownership (other than state or municipal road rights of way) shall be deemed “contiguous”.

**Cottage Industry** - A commercial, manufacturing, or industrial use which is housed in a single-family dwelling or in an accessory structure to a single-family dwelling, on the same lot as the dwelling. A Cottage Industry is not a Home Occupation

**Day Care Center** - Any facility for the care of children under the age of 16 that is required by the State to be licensed or registered as a “day care facility,” but excluding Child Care Homes.

**Development** - See Land Development.

**Directory Sign** – A sign with advertises multiple businesses or organizations, whether on not such businesses or organizations are located on the parcel where the sign is located on the parcel where the sign is located.

**Distribution Center** - An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail air, or motor vehicle.

**DRB** - Development Review Board.

**Drive-through Facility** - An establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Driveway** – An improved surface for vehicular access to no more than three (3) lots.

**Dwelling** - A structure or portion thereof that is used exclusively for human habitation.

**Dwelling, Detached** - A dwelling that is not attached to any other dwelling by any means.

**Dwelling, Single-Family** - A single structure containing one (1) dwelling unit.

**Dwelling, Two-Family** - A single structure containing two (2) dwelling units.

**Dwelling, Multi-Family** - A single structure containing three (3) or more separate dwelling units.

**Dwelling Unit** - Any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used by one (1) family (and their resident domestic servants) for its living, sleeping, cooking and eating needs.

**Educational Facility** - Any establishment certified by the Vermont Department of Education, including parochial, private, public and nursery schools, colleges, universities and accessory uses, but specifically excluding commercially operated schools of beauty culture, business, dancing, driving, music and other similar establishments.

**Effective Date** – Date on which Zoning Regulations, including provisions therein, take effect.

**Equipment Supply and Rental** - The storage, warehousing, and distribution of residential or commercial equipment used in the construction, repair, or maintenance of buildings or property on a retail or rental basis.

**Farm Structure** - A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants or for carrying out other practices associated with accepted agricultural or faming practices, including a silo, as "farming" is defined in state law [10 V.S.A. §6001(22)]. This definition specifically excludes any dwelling for human inhabitation, in accordance with the Act (§4413).

**Floor Area, Gross** - The sum of the gross horizontal areas measured between the exterior faces of exterior walls of the several floors of a building including interior walls, balconies, mezzanines, hallways, stairwells, and including the area of roofed porches, roofed patios and carports having more than one (1) wall, but excluding basements.

**Food Processing Establishment** - An establishment in which food is processed or otherwise prepared for eventual human consumption but not consumed on the premises.

**Foot-candle** - The unit of illumination when the foot is the unit of length.

**Front Lot Line** - See Line, Front Lot.

**Frontage** - That portion of a lot contiguous to a public or private Road or Highway right of way, or to public water.

**Garage, Repair** - Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

**Gross Floor Area** - See Floor Area, Gross.

**Group Home** - A residential facility to be operated under state licensing or registration, that serves not more than eight persons, not including caregivers, who have a handicap or disability as defined by the state (9 V.S.A. §4501). In accordance with the Act (§4412) a group home shall be considered by right to constitute a permitted single-family residential use of property, unless it is to be located within 1,000 feet of another group home.

**Height** - Vertical distance measured from the average elevation of the pre-development grade surrounding the perimeter of the base of a structure to the highest point of the structure.

**Historic Site** – Any site, structure, district or archeological landmark which has been officially included in the National Register of Historic Places and/or the state register of historic places or which is established by testimony of the Vermont Advisory Council on Historic Preservation as being historically significant.

**Home Occupation** - The use of a minor portion of a dwelling unit by a resident thereof for an occupation which is customary in residential areas and does not have an undue adverse effect on the character of the residential area where the dwelling is located, and which meets the requirements of these Zoning Regulations, in accordance with protections provided in the Act (§4412). -

**Horticulture** - The cultivation of a garden or orchard. See also Agriculture, Accepted Agricultural Practice.

**Hotel/Motel** - A structure containing more than six (6) guest rooms with access usually from a common hallway.

**Impervious Surface** - An area which significantly restricts or prevents penetration such as but not limited to asphalt paving and concrete surfaces but not including a gravel or grassed surface.

**Industrial Use -** Any use whose primary activity is the production of goods for wholesale or retail distribution.

**Inn or Guest House** - A residential structure with more than six rooms offering overnight lodging, and which may serve food and/or alcoholic beverages to guests and to the general public. Access to each room is from the interior.

**Institution** - An organization established to promote a cause. Furthermore, public and semi-public uses including, but not limited to: colleges, universities, hospitals, churches, membership clubs and private colleges. See Section 5.10.4 .

**Interested Person** – For purposes of appeals of all decisions under these Zoning Regulations, an Interested Person, as defined under the Act (§4465) includes:

a) A person owning title to property, or a municipality, or a solid waste management district empowered to condemn it or an interest in it, affected by these Zoning Regulations, who alleges that these Zoning Regulations impose on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
b) The Town of Richmond or any municipality that adjoins the Town of Richmond.
c) A person owning or occupying property in the immediate neighborhood of a property that is subject of any decision or act taken under these Zoning Regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the Richmond Town Plan or these Zoning Regulations.
d) Any ten persons who may be any combination of voters or real property owners within the Town of Richmond or a municipality adjacent to the Town of Richmond who, by signed petition to the DRB, alleges that any relief requested by a person under these Zoning Regulations, if granted, will not be in accord with the policies, purposes, or terms of the Richmond Town Plan or these Zoning Regulations. The petition to the DRB shall designate one person to serve as the representative of the petitioners regarding all matters related to an appeal.
e) Any department or administrative subdivision of the State of Vermont owning property or any interest in property within the municipality, and the Vermont Agency of Commerce and Community Development.

**Kennel** - Any lot or premises on which more than six dogs, cats or household pets are either permanently or temporarily boarded, bred or sold.

**Land Development** - *[For the Flood Hazard Overlay District, the use of the term "Land Development" is replaced by the term "Development" as defined in Section 6.8.4.]* The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. Land Development shall not include maintenance and interior remodeling projects. This exemption does not apply to a structural alteration which results in an exterior addition or enlargement. Land Development shall not include any stairway landings or ramps up to 50 square feet in size providing external access to a building which is built in the agricultural-residential district, provided that the entry ways must be in compliance with all other elements of these Zoning Regulations. For purposes of these Zoning Regulations, the definition of Land Development shall also include administratively approved subdivisions and boundary (lot) line adjustments, as regulated herein, which are not subject to subdivision review under the Town of Richmond Subdivision Regulations. A Zoning Permit is required for all Land Development, including subdivision of land.

**Light Manufacturing** - The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes the production of the following goods: Home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods, musical instruments; novelties; wood products; printed material;

lithographic plates; type composition; bookbinding; machine tools; dies and gages; ceramics; apparel; lightweight non-ferrous metal products; plastic goods, pharmaceutical goods; and food products, but not animal slaughtering, curing, nor rendering of fats.

**Line, Front Lot** - Each boundary between a lot and a public or private Road or Highway right of way contiguous to the lot.

**Line, Lot** - Each boundary of a lot.

**Line, Rear Lot** - The line which is opposite and most distant from a front line, or, on an irregular or triangular lot, a line at least ten (10) feet long entirely within the lot, parallel to and furthest distant from the front lot line.

**Line, Side Lot** - A line connecting a front lot line with a rear lot line.

**Loading Space** - A space on the same lot as the principal structure, providing for the standing, loading or unloading of trucks and/or semi-trailers.

**Lot** - A lot means any land in affiliated ownership on the Effective Date of these Zoning Regulations. If a lot (as so defined) is approved for subdivision or re-subdivision by the DRB under the Richmond Subdivision Regulations and a final plat thereof is duly filed for a record in the Richmond Town Clerk's Office within one hundred eighty (180) days of such approval (or within ninety days in cases of approvals issued prior to July 1, 2004), each area of land approved for division shall also be a "lot." Land which has been previously identified and properly recorded in surveys or through deeds prior to the Effective Date of the Richmond Zoning Regulations and Subdivision Regulations shall also be deemed to be "Lots." Lands which are divided by state or municipal road rights of way or surface waters with a drainage area of greater than 10 square miles shall not be deemed contiguous, but shall be deemed to be "Lots".

**Lot, Corner** - A Lot situated at the junction of two (2) or more Roads or Highways.

**Lot Coverage** - That portion of the ground area of a Lot, covered by structures, or, as applicable, by structures, parking areas, walkways, driveways, and areas covered by impervious materials.

**Lot, Interior** - A lot with no frontage on a public or private road, nor on public water.

**Lumber Yard** - The storage and distribution of wood products for retail or wholesale, including other products utilized in residential and commercial building, construction and repair.

**Mean Annual High Water Level** - The highest point on the river bank which experiences annual scouring by high water as indicated by exposed rock, lack of soil or vegetation.

**Mobile Home** - A pre-fabricated, pre-assembled structure, which can be moved upon public Roads or Highways as a single unit, so designed and so constructed as to permit occupancy thereof as a dwelling unit or sleeping place for one (1) or more persons or for commercial use, and which can have a foundation of wheels, jacks or a regular house foundation. For purposes of flood hazard area regulation, a mobile home is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation.

**Mobile Home Park** - Means any Lot which contains, or is designed, laid out or adapted to accommodate, three or more mobile homes. Nothing in this definition shall be construed to apply to premises used solely for storage or display of mobile homes.

**Motel** - A building or group of buildings containing guest rooms, usually with access directly from a parking Lot.

**Multiple Use Building** - A building containing two or more distinct uses.

**Municipal Land Use Permit** – In accordance with the Act (§4303), municipal land use permits include:

a) A zoning, subdivision, site plan, or building permit or approval, any of which relate to "Land Development" as defined in these Zoning Regulations that has received final approval from the applicable Town board or officer.
b) The final official minutes of a meeting that relate to a permit or approval that serve as the sole evidence of the permit or approval.
c) A Certificate of Occupancy, Certificate of Compliance, or similar certificate issued by the Town that relates to permits and approvals listed above.

d) An amendment of any document listed above.

**Museum** - An institution for the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value.

**New Construction** - the construction of structures or filling commenced on or after the Effective Date of these Zoning Regulations, and any subsequent improvements to such structures.

**Nonconforming Lot (Parcel)** - A lot or parcel that does not conform to the dimensional requirements of these Zoning Regulations, but was in compliance with all applicable municipal bylaws and ordinances prior to the enactment of these Zoning Regulations. This includes a lot or parcel that was improperly authorized as a result of an error by the Administrative Officer.

**Nonconforming Structure** – A structure, or portion thereof, that does not conform to these Zoning Regulations, but was in compliance with all applicable municipal bylaws and regulations prior to the enactment of these Zoning Regulations. This includes a structure that was improperly authorized as a result of an error by the Administrative Officer.

**Nonconforming Use** – A use of land or a structure that does not conform to these Zoning Regulations, but did conform to all applicable municipal bylaws, ordinances, and regulations prior to the enactment of the present Zoning Regulations. This includes a use that was improperly authorized as a result of an error by the Administrative Officer.

**Nonconformity** – A nonconforming use, structure, or lot (parcel).

**Office, Business** - A building where the management affairs of a business, commercial or industrial organization, or firm are conducted.

**Office, Professional** - A building that offers services of practitioners of the recognized professions (for example, doctor, dentist, chiropractor, architect, lawyer, engineer, accountant, real estate broker, veterinarian).

**Open Space** - An area or parcel of land unobstructed by man-made facilities except those incidental to recreation or agricultural needs.

**Parapet Wall** - A low wall extending above a roof.

**Parking** - The assembling or standing of motor vehicles for relatively temporary periods of time.

**Parking Area** - An area for the parking of motor vehicles.

**Parking, Off-Road or Highway** - Parking of motor vehicles off the public rights of way.

**Parking Space** - The area required by the provisions of these Zoning Regulations for the parking of one (1) motor vehicle.

**Pedestrian** - A person traveling on foot.

**Permanent** - Continuing or enduring in the same state, place, or the like without marked change.

**Personal Service(s)** - Services such as hairdressing, barbering, shoe repair, massage, tanning salon, exercise studio.

**Person** - An individual, partnership, corporation, association, municipality, and any other incorporated or non-incorporated entity.

**Planned Unit Development (PUD)** - The development of land into lots or units using creative layout and design to enhance the utilization of available resources, in accordance with these Zoning Regulations (see Section 5.12) and the Act (§4417).

**Planned Unit Development (PUD), Residential** A type of Planned Unit Development, to include an area of a minimum contiguous size, as specified by these Zoning Regulations, to be planned, developed, operated, and maintained as a single entity for residential uses, and containing one or more residential clusters

**Plat** - A scaled drawing showing the relationship of a group of lots to one another and other information required by these Zoning Regulations.

**Principal Structure** - A building in which is conducted the main or principal use of the lot on which the building is situated, and including areas such as garages, carports, and storage sheds which are attached to the principal building.

**Private Club** - A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit, nor general public and whose members pay dues and meet certain prescribed qualifications for membership.

**Public Water** - All natural inland lakes, ponds, rivers and streams within the town of Richmond that are navigable by boat under the laws of the state [10 V.S.A. §1422(4)].

**Public Works Specifications** - The Town of Richmond's most recently adopted manual outlining and specifying the requirements for roads, driveways and other such improvements, including water and sewer improvements, which come under jurisdiction of the Town or are made a part of Town approvals.

**Rear Lot Line** - See Line, Rear Lot.

**Recreation Facility** - A place designed and equipped for the conduct of sports and leisure-time activities.

**Recreational Vehicle** – Any 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 single family dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Religious Use** - A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held. In accordance with the Act (§4413), a religious use or facility also includes convents and parish houses.

**Renewable Energy Resources** - Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat and geothermal sources.

**Research Laboratory** - An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

**Restaurant, Fast-Food/Take-Out** - An establishment whose principal business is the preparation and sale of foods or beverages, for consumption either on or off the premises, and whose operation is characterized by 1) food and/or beverages sold in a form ready for consumption, 2) insufficient seating facilities within the restaurant building for the volume of food sold, and 3) consumption designed to take place outside the confines of the restaurant, which may include ordering and pickup of food from an automobile.

**Restaurant, Standard** - An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

**Retail Sales** - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Retirement Community** - A residential community providing housing for the elderly (one resident in each unit being 60 or older) consisting of not more than 100 independent living units (in the form of buildings containing multi-family, two-family or single-family dwellings, common facilities including dining facilities, primarily for the use of the retirement home residents, and a health center which may include facilities of the type offered in a group home.

**Road or Highway** - A way for vehicular traffic, whether designated as a Road or Highway, road titled to town in simple fee, town rights-of-way, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, or otherwise. These zoning regulations specify, in particular instances, whether a public or private road or highway is involved.

**Road or Highway, Center Line of** - The true center line of the right of way of a Road or Highway.

**Sewer System, Community** - Sewer system serving more than two users.

**Setback** - The distance from a Lot Line or, if applicable, the center line of the Road or Highway right of way, to the edge of any structure on the Lot, including the building footprint, edge of deck, cantilevered areas, but not including the roof overhang. However, the setback provisions of these Zoning Regulations do not apply to fences or signs outside of a road right-of-way, except where specifically provided.

**Shoreline District**: The area along both sides of the Winooski and Huntington Rivers, the Oxbows, Gillette Pond, and Lake Iroquois, which lies within fifty (50) feet of the Mean Annual High Water Level. The fifty-foot measurement shall be made perpendicular to the tangent of the riverbank.

**Side Lot Line** - See Line, Side Lot.

**Sign** - Any words, lettering, figures, numerals, phrases, sentences, devices, designs, pictures, symbols or trade marks by which anything is made known, such as are used to designate a firm, an association, a corporation, a business, a service or a commodity or product, or any type of publicity, whether placed on natural objects or on a building, fence or other man-made structure, which are visible from any public road right of way.

**Sign Area** - The total area enclosed by uprights, poles, or braces in or upon the ground.

**Sign, Projecting** - A sign which is attached directly to the building wall.

**Sign, Roof** - A sign erected upon or above a roof or parapet wall of a building or structure.

**Sign, Wall** - Any sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of the wall.

**Silviculture** - The development and/or maintenance of a forest or wooded preserve.

**Single-family Dwelling** – any building or structure in which a household resides that contains sleeping facilities and is not otherwise classified as a "public building" as defined in Title 20, 2730(a) or as a condominium or multiple unit dwelling as defined in Title 20, 2729(d).

**Site Plan** – A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and illustrations or drawings of principal development features proposed for a specific parcel or parcels of land, including parking, landscaping, roads and driveways, drainage, wetlands, floodplain, etc.

**Storage, Indoor** - The keeping, in an enclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

**Storage, Outdoor** - The keeping, in an un-enclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

**Structural Alteration** - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**Structure** - An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, sign, wall or fence, except a wall or fence on an operating farm. The term Structure also includes liquid and gas storage tanks that are principally above ground. Unless otherwise specifically provided, (1) the term Structure does not include parking areas and driveways, (2) for purposes of determining setbacks, the term Structure does not include fences, except where specifically provided, and (3) for the determination of setbacks, septic systems shall not be considered structures and the setbacks shall be dictated by state law. See also Mobile Home, Recreational Vehicle.

**Substantial Damage –** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Tavern** - An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

**Theater** - A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

**Travel Trailer** - Any vehicle (whether designed to be towed by another vehicle or self-propelling) designed to travel upon roads and so designed and constructed as to permit occupancy thereof as a dwelling unit or sleeping place for one (1) or more persons seasonally or for commercial use seasonally, having no other foundation than wheels or jacks.

**Trip End** - Each time a vehicle comes to or leaves a site it is a trip end.

**Undue Adverse Effect** – An effect or impact which is substantial or material. In making a determination of undue adverse impact or effect, the DRB may consider any factors it deems relevant under the applicable section of these regulations where the term is being used, including but not limited to, the nature of the project's surroundings, compatibility with the project's surroundings, whether the project violates a clear written community standard in a municipal bylaw or regulation, or in the Town Plan, whether the project's applicant has failed to take generally available mitigating steps which a reasonable person would take to minimize the impact, in the case of Section 5.6.1(b), the purpose or purposes of the zoning district in which the project is located and the specifically stated policies and standards of the Town Plan and, in the case of traffic issues, safety considerations and resulting levels of service.

**Use** - Any activity taking place upon land and/or in structures.

**Use - permitted** - A use allowed in a Zoning District upon issuance of a Zoning Permit.

**Village Scale** - A style of development in which buildings resemble in size and character existing village single-family homes, and in which pedestrian accessibility is an important feature.

**Warehouse Use** - A building used primarily for the storage of goods and materials, which may also be made available to the general public for a fee.

**Water System, Community** - Water System serving more than two users.

**Wetlands** - Means those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities.

**Wholesale Trade** - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals.

**Yard** - An area between a lot line and a line parallel to a Lot Line at a distance from such Lot Line equal to the required setback for a principal structure.

**Yard, Front** - An area between the Front Lot Line and a line parallel to the front Lot Line at a distance from such front Lot Line equal to the required front yard setback for a principal structure.

**Zoning District** - A land area or land areas as defined by the Zoning District Maps.

**Zoning District Maps** - The maps of the Town dated 1996 dividing the Town into the Zoning Districts described in Section 2, the originals of which are in the Richmond Town Clerk's Office; copies of the Zoning District maps are attached as Appendix A and B.

**Zoning Permit** - A permit issued by the Administrative Officer as described in Section 5 and elsewhere in these Zoning Regulations.

# 8. ADMINISTRATION, APPEALS AND ENFORCEMENT

## 8.1 Administrative Officer

The Administrative Officer, and an Acting Administrative Officer to serve in the Administrative Officer's absence, shall be appointed by the Richmond Selectboard from nominations submitted by the Richmond Planning Commission, in accordance with the Act (§4448). The Administrative Officer may be removed for cause at any time by the Selectboard after a hearing and consultation with the Planning Commission. The Acting Administrative Officer shall serve at the pleasure of the Selectboard.

The Administrative Officer shall administer these Zoning Regulations literally and shall not have the power to permit any Land Development which is not in conformance with these Zoning Regulations.

## 8.2 Development Review Board (DRB)

The Selectboard shall establish the number of seats on the DRB in accordance with the Act (§4460). Each term shall be for three (3) years and no more than three (3) terms shall expire in any one year. During March of each year the Selectboard shall appoint new members or re-appoint existing members. The Selectboard may also appoint alternates to serve in the event that one or more members are unable to serve in a particular proceeding. The DRB shall meet as required and shall operate under the authority granted under the Act [§4460(e)] and these Zoning Regulations. A member may be removed by the Selectboard for just cause after a public hearing duly warned and held.

**8.2.1 Organization and Meetings** - The DRB shall elect a chair from its membership, shall appoint a secretary and shall adopt rules of procedure and rules of ethics with respect to conflicts of interest for the conduct of its affairs. A quorum shall be not less than a majority of the members of the DRB, and a concurring vote of a majority of the DRB shall be necessary to affect an order. Meetings shall be at the call of the chair or a majority of the members, and at such other regular times as it may determine. Majorities are of all members, not just those present at a meeting. All meetings of the DRB, except for deliberative and executive sessions, shall be open to the public in accordance with Vermont's Open Meeting Laws. The Officers of the DRB may administer oaths and compel the attendance of witnesses and the production of material germane to any issue within the preview of these Zoning Regulations.

**8.2.2 Responsibilities** - The DRB shall be authorized to:

a) To hear and decide access approval for lots lacking required frontage on public or private roads or public waters.
b) To hear and decide applications for Site Plan Approval required by the terms of these Zoning Regulations.
c) To hear and decide applications for Conditional Use Approval required by the terms of these Zoning Regulations.
d) To hear and decide applications for Planned Unit or Planned Residential Development as allowed or required by the terms of these Zoning Regulations.
e) . To hear and decide appeals of any decision or act of the Administrative Officer under these Zoning Regulations, including DRB referrals and the issuance or denial of Zoning Permits, Certificates of Occupancy and notices of violation.
f) To hear and decide appeal for a variance from the strict application of these Zoning Regulations.
g) To receive testimony under oath and make such studies and surveys as are required to carry out the duties herein outlined.
h) To request information or opinions from the Planning Commission and/or the Chittenden County Regional Planning Commission relative to such application.
i) To request information or opinions from any civil or administrative officer of the municipality or any other person or persons considered expert on the matter before the DRB.
j) To attach such requirements and conditions to its approvals as may be necessary to carry out the intent and purposes of these Zoning Regulations.

k) To present to the Planning Commission such suggestions for amendment of these Zoning Regulations as it deems necessary to clarify the intent and purpose or improve any section, article, or paragraph on which the DRB has occasion to rule.

**8.2.3 Public Hearing Notice Requirements** - All public hearings of the DRB as required under these Zoning Regulations and the Act shall be warned in accordance with the Act (§4464):

a) Public hearings for conditional uses, Planned Unit Development and Planned Residential Development, appeals, and variances shall be given not less than 15 days notice in advance of the hearing date by publication of the date, place and purpose of the hearing in a newspaper of general circulation within the Town; by posting the same information in three (3) or more public places within the municipality, including posting by the Applicant on the subject property within view of the nearest public right-of-way; and by written notification to the Applicant, and to all property owners adjoining the property subject to development without regard to public rights-of-way.
b) Public notice for site plan and other development review hearings shall be given not less than seven (7) days prior to the hearing date and, at minimum, shall include the posting of the date, place and purpose of the hearing in three (3) or more public places within the Town, in conformance with Vermont's Open Meeting Law [1 V.S.A. §312(c)(2)], and written notification to the Applicant, and to all property owners adjoining the property subject to development, without regard to public rights-of-way.

c) The notification for a public hearing shall include a description of the proposed project, and be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the hearing process is a prerequisite to the right to take any subsequent appeal.
d) The Applicant shall be required to bear the cost of public warning, and the cost and responsibility of notifying adjoining property owners. The Applicant shall provide a list of names and addresses of those adjoining property owners. The Applicant shall demonstrate proof of delivery to adjoining property owners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address, supported by a sworn certificate of service.
e) No defect in the form or substance of any public notice required under this section shall invalidate the action of the DRB where reasonable efforts have been made to provide adequate posting and notice,

**8.2.4 Public Hearings** - The DRB shall conduct public hearings in accordance with the Act (§§4461-4464):

a) The DRB may examine or cause to be examined any property, maps, books or records bearing upon the matters concerned in the proceeding, may require the attendance of any person having knowledge in the premises, and may administer oaths, take testimony and require proof material for its information.
b) Opportunity shall be provided for each person wishing to achieve status as an Interested Person, for purposes of participation or appeal under Section 8.4, to demonstrate that the criteria for achieving such status are met. The DRB shall keep a written record of the name, address and participation of each of these persons.
c) Any person can participate in the public hearing. However, appeals are limited to Interested Persons.
d) The DRB may recess the proceedings on any application pending submission of additional information, and should close evidence promptly after all parties have submitted requested information.

**8.2.5 Decisions** - In accordance with the Act (§4464), all decisions of the DRB shall be issued within 45 days after the date of hearing adjournment. Failure to issue a decision within this period shall be deemed approval and shall be effective on the 46th day, provided, however, that for a "deemed approval" to be effective, the Applicant must seek court affirmation of the applicability of this remedy by direct appeal to the Environmental Court. In addition:

a) Decisions shall be issued in writing and shall separately state findings of fact, to include a statement of the factual bases on which the DRB has made its conclusions, and a statement of conclusions of law related to applicable review standards, based on the evidence presented.
b) Decisions shall also include a statement of the time within which an appeal may be taken to the Environmental Court under Section 8.4.6.

c) In rendering a decision in favor of the applicant, the DRB may attach additional conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the Richmond Town Plan then in effect. Such conditions may include the following:

i For the purpose of this Section, the Term "Security" shall mean a performance bond issued by either a bonding or surety company approved by the Town's Selectboard or issued by the owner with security acceptable to the Town's Selectboard or an escrow or letter of credit arrangement acceptable to the Town's Selectboard, in each case securing to the Town the completion of the required improvements for which the Security is supplied, their required maintenance and site restoration or remediation, as provided below in (iii). In the event of non-performance, the bonding or surety company, or the Town, as the case may be, may complete the required improvements and perform the maintenance, to the extent of the Security, and may enter onto the owner's property for such purposes.

ii The DRB may require that no Zoning Permit, except for any permits that may be required for infrastructure construction, may be issued for approved Land Development unless the required Roads and Highways and improvements on or in those Roads and Highways, parking areas, stormwater facilities, sewer and water systems, and other required infrastructure improvements (including those anticipated to be dedicated to the Town and those anticipated to remain private) have been satisfactorily installed in accordance with the approval decision, and these regulations, and as-built plans submitted by a registered professional engineer.

iii In lieu of the condition in (ii) above, the DRB may require, prior to commencement of any Land Development, Security in an amount sufficient to cover the full cost of required Roads and Highways, improvements on or in those Roads and Highways, parking areas, stormwater facilities, water and sewer systems, and other required infrastructure improvements, submission of as-built plans by a registered professional engineer, the maintenance of all forgoing improvements for a period of two years after submission to and approval by the Administrative Officer of as-built plans, and also including restoration or remediation in the event the applicant abandons or otherwise fails to complete the project or required infrastructure improvements, as such full cost is estimated by the DRB or by such Town departments or officials as the DRB may designate. Such security shall secure to the Town completion of such required improvements within three years of the start of construction of the first of such required improvements and the maintenance of such required improvements for such period of two years after completion of the last of such required improvements.

iv The DRB may also require, prior to commencement of any Land Development, Security in an amount sufficient to cover the full cost of any required landscaping, screening, buffers, and site restoration, adequate stabilization, and protection of public facilities that may be affected by the project, and maintenance of all the foregoing for a period of two years after completion, as such full cost is estimated by the DRB or such municipal departments or officials as the DRB may designate. Such security shall secure the Town the completion of all such required improvements within three years from the start of installation of the first such required improvements and their maintenance for a period of two years after completion of the last of such required improvements.

v The time periods for completion in (iii) and (iv) above may be extended by the DRB for an additional 3 years with the consent of the land owner.

vi The Security required by (iii) and (iv) above may be by one consolidated instrument, or by separate instruments.

vii Prior to the issuance of a certificate of occupancy for any required improvements, the applicant shall reimburse the Town within 30 days of invoice for the Town's engineering, legal, and other professional fees related to the inspection of the work, preparing reports to the Town, and other related activities. This provision shall be deemed a condition of every approval whether or not expressly stated in the approval.

d) All decisions of the DRB shall be sent by certified mail to the applicant, or appellant. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and shall be filed with the Administrative Officer and the approval or notice of approval filed with the Richmond Town Clerk as part of the public records of the municipality.

e) Any approval granted by the DRB for the project shall not be personal to the applicant, but shall run with the land. Any approval shall expire 24 months from the date of the final approval unless a valid Zoning Permit has been obtained, or the DRB determines at a warned public hearing that substantial commencement of the project has begun or that the work, time and expenditures invested in the project indicates a good faith intent to presently commence upon the project. The DRB may grant an extension of up to 12 months for good cause, if a request for extension was made before the end of the 24-month period after the final approval.

## 8.3 Violations and Enforcement

**8.3.1 Violations** - The commencement or continuation of any Land Development that is not in conformance with these Zoning Regulations shall constitute a violation. All violations shall be pursued in accordance with the Act (§§4451, 4452). Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute in the name of the Town of Richmond any appropriate action, injunction or other proceeding to enforce the provisions of these Zoning Regulations, including conditions of approval. All fines imposed and collected for violations shall be paid over to the Town.

**8.3.2 Notice of Violation** – Any person who violates these Zoning Regulations shall be fined not more than $100.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail, as provided in the Act (§4451). The 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. An action may be brought without the seven-day notice period and opportunity to cure if the alleged offender repeats the violation after the seven-day period and within the next succeeding 12 months. In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense.

## 8.4 Appeals and Variances

**8.4.1 Appeals to the Development Review Board (DRB)** – In accordance with the Act (§4465), an Interested Person may appeal any decision or act taken by the Administrative Officer, or failure to act within a required period, by filing a notice of appeal with the secretary of the DRB or with the Town Clerk if no such secretary has been elected. If the appeal is taken with respect to a decision or act of the Administrative Officer, the notice of appeal must be filed within fifteen days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer.

**8.4.2 Notice of Appeal** - Such notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, including any request for a variance from one or more provisions of these Zoning Regulations, and the alleged grounds why such requested relief is believed proper under the circumstances.

**8.4.3 Hearing on Appeal** – The DRB shall warn and hold a public hearing on a notice of appeal within 60 days of its filing, in accordance with Section 8.2.3, and as required under the Act (§4468). In accordance with the Act [§4470(a)], the DRB may reject an appeal or request for consideration without hearing, and render a decision within 10 days of the filing of a notice of appeal if it determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts raised by or on behalf of the appellant. All appeal hearings shall be open to the public, and the rules of evidence applicable to these hearings shall be the same as the rules of evidence that apply to contested cases in hearings before administrative agencies (10 V.S.A. §810). Any Interested Person may appear in person or be represented by an agent or attorney at the hearing.

**8.4.4 Decisions on Appeal** – A decision on appeal shall be rendered no later than 45 days after the date of hearing adjournment, in accordance with Section 8.2.5.

**8.4.5 Variances** - In accordance with the Act (§4469), on appeal from a decision of the Administrative Officer, the DRB may grant variances and render a decision in favor of the appellant only if all the following facts are found, and the findings are specified in its decision:

a) 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 these Zoning Regulations in the neighborhood or Zoning District in which the property is located.
b) That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
c) That the unnecessary hardship has not been created by the appellant.
d) That the variance, if authorized, shall not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
e) That the variance, if authorized, shall represent the minimum variance that shall afford relief and shall represent the least deviation possible from these Zoning Regulations and from the Town Plan.

Variances for Land Development (as defined in Section 6.8.3) within the Flood Hazard Overlay District shall follow the requirements for this section. In rendering a decision in favor of an appellant under this section, the DRB may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of these Zoning Regulations, the Richmond Town Plan, and the Act.

**8.4.6 Appeals to Environmental Court** - Any Interested Person who has participated in a regulatory proceeding under these Zoning Regulations may appeal a decision of the DRB, or an approval resulting from the failure of the DRB to act within the required 45-day period, within 30 days of such decision to the Vermont Environment Court, as provided in the Act (§§4449, 4471).

a) "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
b) A copy of the notice of appeal filed with the Environmental Court shall be sent to the Richmond Town Clerk, or the Administrative Officer if so designated, who shall supply a list of Interested Persons to the appellant within five (5) working days of receipt of the notice. Upon receipt of the list, the appellant shall, by certified mail, provide a copy of the notice of appeal to every Interested Person. If one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.
c) If an appeal is taken to Environmental Court, a Zoning Permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. §8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

**8.4.7 Finality** - In accordance with the Act (§4472), upon the failure of any Interested Person to appeal an act of the Administrative Officer or DRB, all Interested Persons affected shall be bound by that decision or act, and shall not thereafter contest, directly or indirectly, the decision or act, or any proceeding to enforce such decision or act.

## 8.5 Recording Requirements

**8.5.1** Within 30 days of the issuance of a Municipal Land Use Permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or

notice to the Richmond Town Clerk for recording in the land records of the Town, as generally provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all Municipal Land Use Permits shall be kept, as required under the Act [§4449(c)]. The Applicant may be charged recording fees.

**8.5.2** The Administrative Officer shall also maintain a record of all permits, elevation certificates, floodproofing certifications and variance actions issued for Land Development within the Flood Hazard Overlay District.

## 8.6 Fee Schedule

In accordance with the Act (§4440), the Richmond Selectboard shall establish a schedule of fees to be charged in administering these Zoning Regulations, with the intent of covering the Town's administrative costs; and establish procedures and standards for requiring Applicants to pay for the reasonable costs of independent technical reviews of their applications.

## 8.7 Availability of Documents

In accordance with the Act (§4445), copies of these Zoning Regulations, other related municipal bylaws and ordinances, and the Richmond Town Plan shall be made available to the public during normal business hours in the Richmond Town Clerk's office.

## 8.8 Amendments of Statutes Referenced Herein

Certain provisions of the Act in effect as of the Effective Date of these regulations are incorporated in substance or verbatim as sections or subsections of these regulations. If any such regulatory or statutory referenced provision of the Act is amended after the Effective Date of these regulations, the corresponding section or subsection of these regulations shall be deemed automatically amended to conform with the language of such amendment of the Act.

## *Index*


***A***

Accessory Dwelling ..... 41, 80
**Accessory Structure** ..... 42, 80
**Act, The** ..... 80
**Adaptive Use of Existing Structures** ..... 37
Administration, Appeals And Enforcement ..... 90
Administratively Created Lots ..... 4
Agricultural / Residential District (A/R) ..... 7
**Agricultural Practices** ..... 3, 80
Amendment or Repeal of Sections ..... 1
Appeals and Variances ..... 93
Application of Zoning Regulations ..... 1
Availability of Documents ..... 95

***B***

Boundary Adjustments ..... 41
Business Yard ..... 82

***C***

**Certificates of Occupancy** ..... 31
Commercial District (C) ..... 17
Conditional Use Review ..... 34
Conflicting Ordinances or Regulations ..... 1
**Contiguous Lands** ..... 82
**Contiguous Lots - Merger** ..... 24
**Cottage Industries** ..... 36
Curb Cuts ..... 24

***D***

**Day Care Center** ..... 82
Day Care Home ..... 42, 82
Definitions ..... 80
Development Review Board ..... 90
Driveway Requirements ..... 51

***E***

**Existing Small Lots** ..... 24
Exterior Lighting ..... 27
**Extraction of Earth Resources** ..... 35

***F***

Fee Schedule ..... 95
Flood Hazard Overlay District ..... 53
**Forestry (Silvicultural) Practices** ..... 3, 80

***G***

Gateway Commercial District (G) ..... 13
Group Home ..... 42, 83

***H***

High Density Residential District (HDR) ..... 8
Home Occupation ..... 42, 83

***I***

Industrial / Commercial District (I/C) ..... 19
Interested Person ..... 35, 84

***L***

Land Capability ..... 3
Land Development ..... 1, 84
Legal Status of the Regulations ..... 1
Lots with no frontage ..... 24

***M***

Mobile Home Park District (MHP) ..... 21
Mobile Homes and Travel Trailers ..... 51
Multiple Use of Lots ..... 24

***N***

Noise ..... 26
Nonconforming Lot ..... 24, 86
Nonconforming Structure ..... 25, 86
Nonconforming Use ..... 26, 86

***P***

Parking and Loading ..... 47
Pedestrian and Bike Ways ..... 51
**Permit appeals** ..... 30
Permit application process ..... 29
**Permits - Amendments** ..... 31
**Permits - Misrepresentations** ..... 31
Permits - process after issuance ..... 31
Planned Residential Development ..... 43
Planned Unit Development ..... 43
**Public Facililties and Utilities** ..... 42
**Public Hearings** ..... 91
Public Works Specifications ..... 24, 87
Purpose of Zoning Regulations ..... 1

***R***

Recording Requirements ..... 94
Required Frontage ..... 24
Residential / Commercial District (R/C) ..... 10

***S***

**Seasonal Dwelling** ..... 42
Setback Modifications ..... 25
Severability of the Regulations ..... 1
Shoreline Protection Overlay District ..... 51
Signs ..... 38
**Silvicultural Practices** ..... 3, 80
Site Plan Review ..... 32
Special Zoning Regulations ..... 47
Steep Slopes ..... 68
Subdivision Review ..... 32
Swimming Pools ..... 51

***T***

Taller Structures.....51
**Temporary Structure**.....42

***U***

**Undue Adverse Effect**.....89
Use Index (Summary Table).....4
Uses and Exemptions for Districts.....3

***V***

Village Commercial District (V/C).....15
Violations and Enforcement .....93

***W***

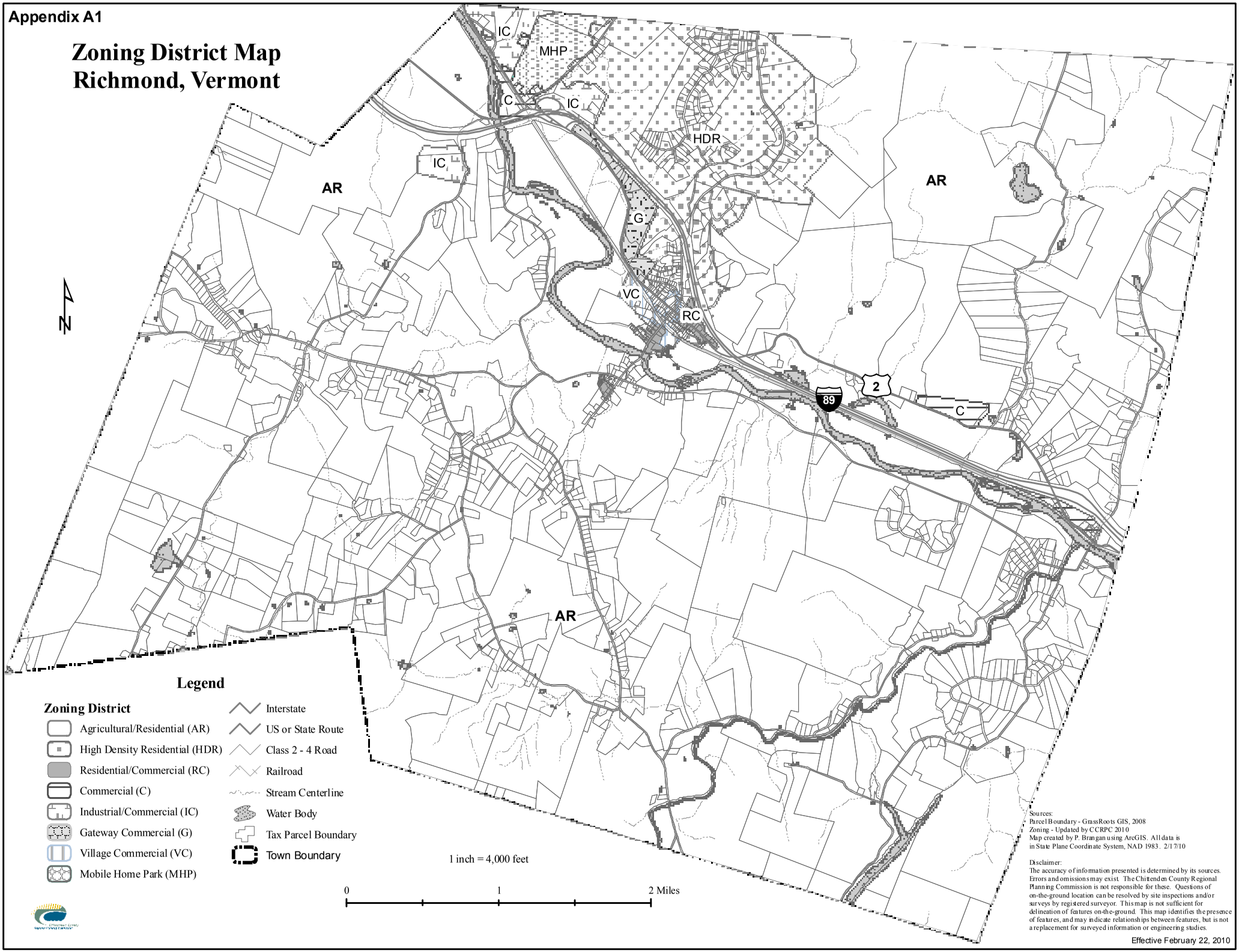
Water Supply Source Protection Area .....68
Wetlands .....68, 89
Wireless Telecommunications Facilities .....68

***Z***

Zoning Administrator.....90
Zoning District Map.....3
Zoning Districts .....2

Appendix A1

# Zoning District Map
# Richmond, Vermont



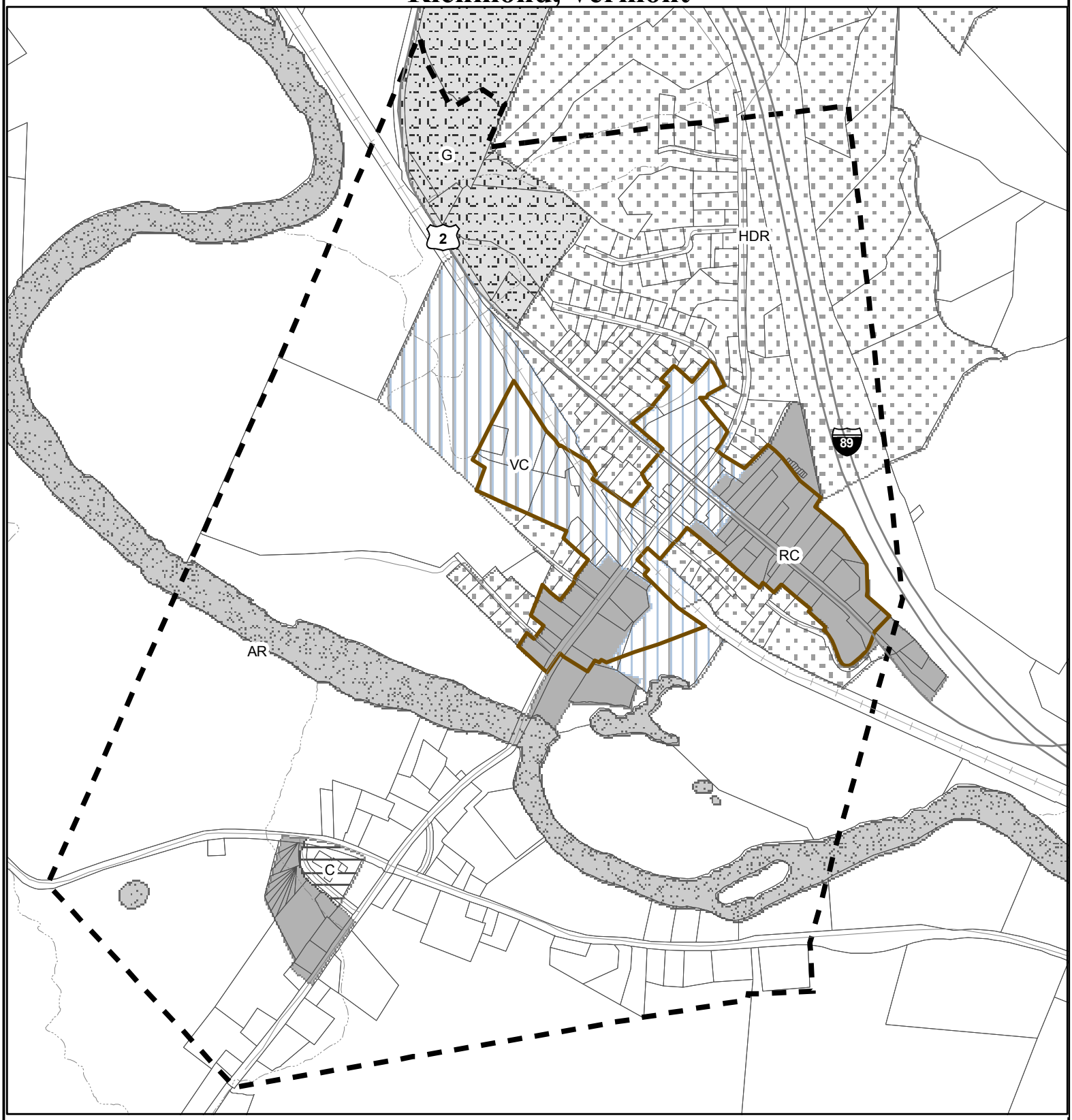

Sources:
Parcel Boundary - GrassRoots GIS, 2008
Zoning - Updated by CCRPC 2010
Map created by P. Brangan using ArcGIS. All data is in State Plane Coordinate System, NAD 1983. 2/17/10

Disclaimer:
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a replacement for surveyed information or engineering studies.

Effective February 22, 2010

# Zoning District Map - Village Area
# Richmond, Vermont

1 inch = 800 feet




## Legend

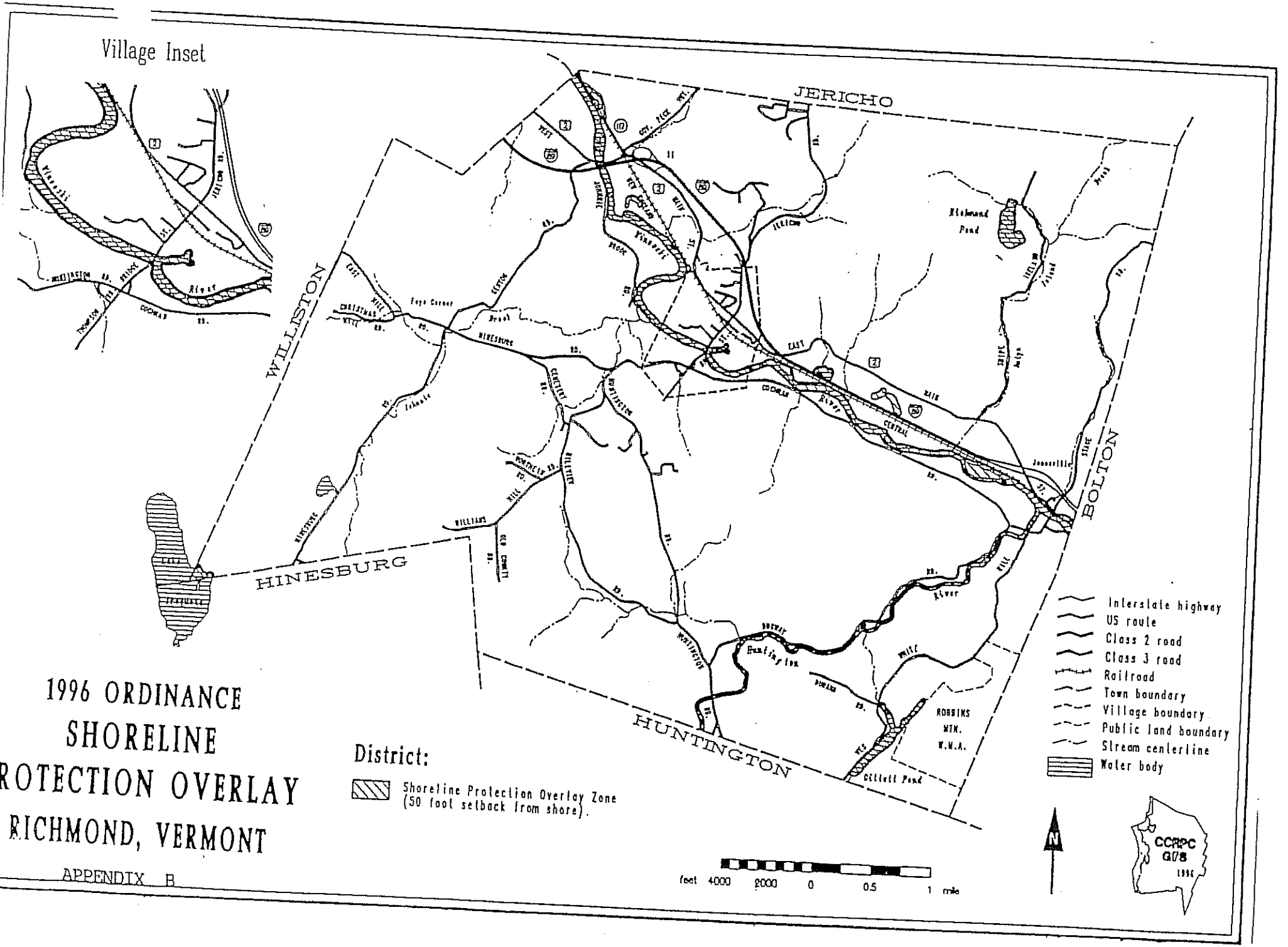
**Zoning District**

- Agricultural/Residential (AR)
- High Density Residential (HDR)
- Residential/Commercial (RC)
- Commercial (C)
- Industrial/Commercial (IC)
- Gateway Commercial (G)
- Village Commercial (VC)
- Mobile Home Park (MHP)
- Designated Village Center
- Municipal Water & Sewer District
- Tax Parcel Boundary
- Stream Centerline
- Water Body
- Interstate
- US or State Route
- Class 2 - 4 Road
- Railroad

Sources:
Parcel Boundary - GrassRoots GIS, 2008
Map created by P. Brangan using ArcGIS 9.3. All data is in State Plane Coordinate System, NAD 1983. April 14, 2009.

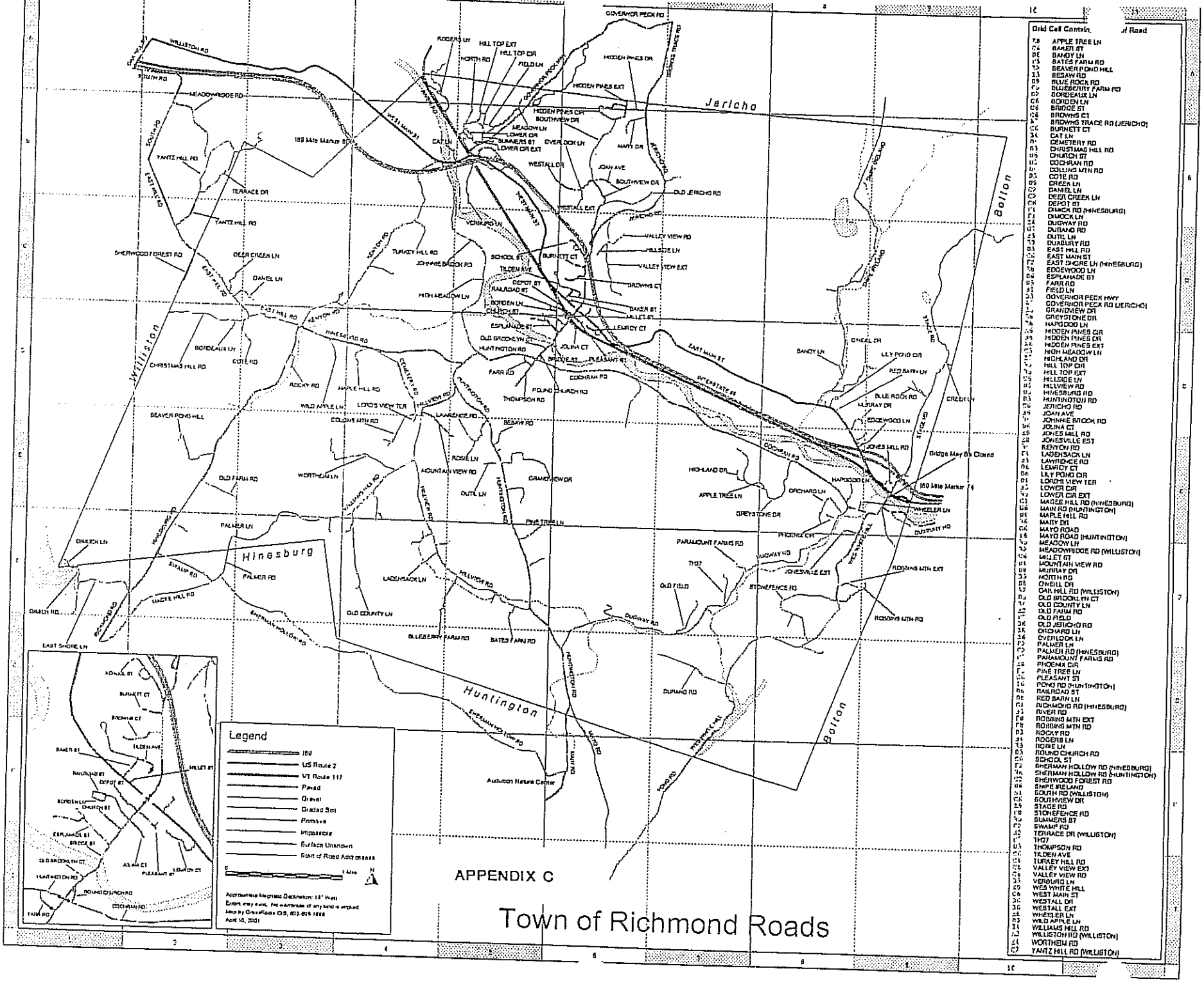
Disclaimer:
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a replacement for surveyed information or engineering studies.

Effective April 27, 2009




# 1996 ORDINANCE
# SHORELINE
# ROTECTION OVERLAY
# RICHMOND, VERMONT

APPENDIX B




APPENDIX C

Town of Richmond Roads