

MINUTES
NORTH HERO PLANNING COMMISSION MEETING
DATE: Tuesday, March 22, 2022 @ 7:00 pm
PLACE: North Hero Town Office and via Zoom

CALL MEETING TO ORDER

The meeting was called to order by Acting Chair Andy Alling at 7:00 p.m.

Present: Bev Poquette, Bobby Miller, Andy Alling, Andre Quintin, Warren Wright, Ben Joseph, George Salembier (via Zoom)

Also Present: Kathy Finck, PC Clerk, Hugo Gervais, ZA

ADJUSTMENT OF AGENDA

- Andy asked to move the review of regulations to Visitor section; agreed by consensus.

ELECTION OF OFFICERS/REORGANIZATION

- Election of Officers: Motion by Andre, seconded by Ben to elect Andy Alling as Chair; approved unanimously. Motion by Andy, seconded by Bev to elect Andre Quintin as Vice Chair; approved unanimously.
- Review Open Meeting Law: Andy stated that there is a course offered on 3/31/22. This training is required annually for Chair, newly elected officials, and every 3 years for re-elected officials. Leisa Fearing also stated that NRPC has an on-line presentation. Andy will check to see if Affidavit is accepted in lieu of training.

APPROVAL OF MINUTES

Draft Minutes of 2/22/22 were reviewed. Andre made a motion to approve the minutes, seconded by Bobby. The motion was approved unanimously.

RECOGNITION OF VISITORS

- Greta Brunswick and Emily Klofft from the NRPC
- Leisa Fearing, DRB
- Joe Poquette spoke to requests for issues to be addressed in regulations: handicapped should be exempt, town should only deal with town issues, not state issues, 2-year renewal of permits is not needed, abandoned buildings - needs definition, and "substantially complete" is not a real number and open to interpretation

Continue Review of NH Development Regulations: Discussion with NRPC representatives Greta Brunswick and Emily Klofft included a review of all changes being considered by the PC. The NRPC will provide additional clarification and information on:

Section 2.6 Violations and Enforcement - wording for a written complaint form,
Section 8.16 RV and Travel Trailers – research definitions and state regulations vis a vis
NH regulations in this section

REPORTS

- ZA/Asst ZA update: None
- DRB decisions: the Shore Acres court decision was discussed

CORRESPONDENCE FOR ACTION OR REVIEW

- None

UNFINISHED BUSINESS FOR ACTION OR DISCUSSION

- Discuss Certificate of Occupancy Requirements: Greta stated that the COO is enabled, not required by the state. Discussed Certificate of Occupancy, Certificate of Compliance and will continue discussion at a future meeting.
- ZA Complaint Form – deferred discussion to next meeting
- Discuss building permit fees when a structure is destroyed by fire: Fees are set by the Select Board. PC may want to recommend a permit but waive the permit fee if within the same footprint. The Board deferred discussion to the next meeting.

NEW BUSINESS DISCUSSION OR ACTION

- Appointment of Liaison to Select Board: Andy made a motion to appoint Ben to be the liaison to the Select Board, seconded by Warren. The motion was approved unanimously.
- PC Clerk resignation: Kathy Finck resigned as PC Clerk as of 3/30/22.

AGENDA BUILDING

- Next meeting: April 26, 2022
- Complaint Form
- Building permit fees when a structure is destroyed by fire
- Exemption for handicapped structure
- Two-year permit renewal
- Substantial completion definition as it relates to COC and COO

ADJOURNMENT

Andre made a motion to adjourn, seconded by Bobby. The motion passed unanimously. The meeting adjourned at 8:55 p.m.

North Hero Planning Commission

March 22, 2022

Sign In Sheet

PLEASE PRINT CLEARLY

Name	Address
Emily Kloff	NRPC - 75 Fairfield St., St. Albans
Joe Poquette	102 QUARRY Rd. N. Hero
Leisa Fearing	DRB member
Greta Brunswick	NWRPC
George Salembier	PC member

fn p. 16 See 4.4

The following recommended language is adapted from template language being used by several towns in the Two-Rivers Ottawaquechee RPC region. This language provides 3 specific standards for a structure being structurally unsafe. Additionally, below is suggested language for abandoned structure.

SECTION 4.4: ABANDONED AND DESTROYED STRUCTURES (SECTION 330)

A) Structures shall be considered abandoned for the purposes of these Bylaws if one or more of the following apply:

- 1) Structures which are not substantially complete within two (2) years of the issuance of a zoning permit,
- 2) Structures deemed uninhabitable by the Health Officer,
- 3) Structures deemed a fire danger by the Fire Chief, or
- 4) Structures which, due to deterioration or damage, lack any major structural element customary to that building type for a period of two years. Major structural elements include, but are not limited to, a roof, windows or water supply.

B) The owner of any structure deemed abandoned shall be notified in writing via certified mail by the ZA. The owner must either:

- 1) Apply for a development permit to undertake any use or construction, and thereby confirm the intent to not abandon the structure; or
- 2) fence and sign the property to prevent access, and then as soon as practical remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.

Violations will be regulated in accordance with Section 2.6.

ARTICLE 11

Abandoned Structure: A structure that is uninhabited and uninhabitable for two or more years.



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MEMORANDUM

*fn p. 17
Article 5
2 pages*

To: North Hero Planning Commission
From: Emily Klofft – Regional Planner
Date: March 7, 2022
Subject: Defining & Regulating Bars and Restaurants

Purpose of Differentiating Bars and Restaurants

There are three main reasons municipalities may want to differentiate bars & restaurants.

1) Differing Standards of Review/Allowed Zoning Districts

The most common reason municipalities separate the definition of restaurant and bar is to separate which zoning districts each use is allowed in, and what level of review is required. For instances, prohibiting bars from certain zoning districts where restaurants are allowed or requiring conditional use review in districts where restaurants are allowed by right. Examples of this include the zoning regulations of Albans City, Morrystown, Stowe & Milton.

Currently, conditional use review is required for restaurants in all North Hero zoning districts, with the exception of the conservation district where it is prohibited.

2) Specific Use Standards for Bars

Another reason to separate definitions for bars and restaurants would be to create specific regulations for bars under the special use standards. For instance, the Town could regulate the number of bars in a specific area or define minimum distances from schools & other similar locations. Waterbury and Barre City both have specific use standards to regulate noise & outdoor seating for bars. However, they also have essentially the same specific use regulations for restaurants.

3) Requiring Permit for Change of Use

If bar and restaurants are defined under the same definition, then a business shifting from a restaurant to a bar would not need to apply for a permit. However, any conditions attached to the restaurant permit would still apply. If bar and restaurant are defined as separate uses, a shift from one use to the other would require a new zoning permit and associated review as required by the bylaws.

Definition of Bar

For most municipalities that differentiate the two, a bar is defined as an establishment that primarily serves alcoholic beverages for on-premises consumption. Food and entertainment may be accessory to that principal purpose. In contrast, restaurant's primary purpose is to serve food for on-premises consumption. Sale and consumption of alcoholic beverages may be accessory to this principal purpose. See specific examples below.

Grand Isle • Highgate • Isle La Motte • Montgomery • North Hero • Richford • St. Albans C • St. Albans T • Sheldon • South Hero • Swanton T • Swanton V

St. Albans City

BAR: Premises used primarily for the sale or dispensing of alcoholic beverage by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use. Includes nightclubs where entertainment and/or dancing may be conducted.

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

Milton

Tavern. An establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may include food service and entertainment as an accessory use.

Restaurant. An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption. It may also provide catering service as an accessory use. This definition specifically excludes mobile foodservice.

Stowe

Bar (Tavern): Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises, or portion thereof, as accessory to the principal use.

Restaurant: A commercial establishment where food and drink are prepared, served and consumed by the general public, primarily within the principal building.

Morristown

Bar - A business or part of a Structure used primarily for the retail sale or dispensing of alcoholic beverages for on-premise consumption, or the part of a building, structure, or premise of a private club, association or organization that dispenses alcoholic beverage for on-premise consumption.

Restaurant - An establishment where food and drink is available to the general public. Alcoholic beverages may or may not be served, but shall only be incidental to the serving of food. Restaurant use does not include uses for Drive-In Restaurant or Refreshment Stand and Bar.



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p. 17-18
Land Uses
Article 5

5 pages

Date: March 15, 2022

To: North Hero Planning Commission

CC: North Hero Development Review Board

From: Greta Brunswick, Senior Planner

Re: Short-Term Rentals

VERMONT STATUTORY AUTHORITY, PERMITTING AND REGULATION. The following statutes and state permits/regulations apply to Short Term Rentals (this is not intended to be exhaustive):

- **Municipal Authority to Regulate Short-Term Rentals within Bylaws: Title 24, Chapter 117, §4412**
 - 24VSA §4412(F) Nothing in subdivision (1)(E) of this section [pertaining to Accessory Dwelling Units] shall be construed to prohibit:
 - (i) a bylaw that is less restrictive of accessory dwelling units; or
 - (ii) a bylaw that regulates short-term rental units distinctly from residential rental units.
 - 22VSA §2291(29) To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing.
- **Statutory Definition: Title 18, Chapter 85 §4301 (Act 10 of 2018 Special Session)**
 - 18VSA §4301 Health; Food and Lodging Establishments definition: "Short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.
 - 18VSA §4301 Health; Food and Lodging Establishments definition: "Lodging establishment" means a place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, inns, and bed and breakfasts. "Lodging establishment" shall not include short-term rentals.
- **Required Posting in Each Unit: Title 18, Chapter 85 §4467 (Act 10 of 2018 Special Session)**
 - 18VSA §4467 A short-term rental operator shall post within the unit a telephone number for the person responsible for the unit and the contact information for the Department of Health and the Department of Public Safety's Division of Fire Safety.
 - Reference Self Certification Form for Short Term Rental Safety, Health and Financial Obligations Form for posting:

Grand Isle • Highgate • Isle La Motte • Montgomery • North Hero • Richford • St. Albans C • St. Albans T • Sheldon • South Hero • Swanton T • Swanton V

https://www.healthvermont.gov/sites/default/files/documents/pdf/ENV_FL_ShortTermRentalObligations.pdf

- **VT Department of Health and VT State Fire and Safety Code Permit and Inspections**
 - Applies to public buildings as defined in 20 VSA Chapter 173, which includes “a building in which people rent accommodations, whether overnight or for a longer term.”
 - Permit required for new construction, alterations, renovations, change of use.
 - The permit will determine a maximum occupancy for the structure.
 - 18VSA §4466 (Act 10 of 2018 Special Session) - (a) The Commissioner may inspect through his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, a short-term rental and the registrant’s records related to the short-term rental.
- **Vermont Department of Health Lodging License**
 - Lodging license is required for a person to maintain or operate a lodging establishment with three or more units, or any bed & breakfast regardless of the number of rooms if prepared food is served. Includes short-term rentals that meet these thresholds.
- **VT Meals and Room Tax Applicability and Posting**
 - 32VSA §9282 (Act 10 of 2018 Special Session) requires that all short-term rental operators post a Vermont Meals and Rooms Tax account number on any advertisement for a short-term rental beginning July 1, 2018.
 - 32VSA Chapter 225 states that sleeping accommodations offered to the public for compensation on premises operated by a private person, entity, institution, or organization are subject to the Vermont Meals and Rooms Tax if those accommodations are rented for a total 15 or more days in any one calendar year. Note: If you rent your room or other type of lodging to the same person for 30 or more consecutive days, the person is then considered to be a permanent resident, and different rules apply.
 - The following is a nonexclusive list of types of lodging rented or owned by the host which fall under the provisions of the 32VSA Chapter 225:
 - A house or room(s) in a house
 - Cabin, cottage, condominium, ski lodge
 - Barn, bunkhouse, tree house, camper, tent
- **VT State Wastewater Permit**
 - A State Wastewater and Potable Water Supply Permit may be required.
 - If the short-term rental is advertised with the same number of bedrooms as is included in an existing state wastewater and potable water supply permit, no new permit is required.
- **Act 250**
 - Act 250 may apply to short-term rentals depending on the town where the rental is located, whether new subdivision or construction is proposed and whether there are any existing Act 250 permits on the parcel in question.

STATUS OF PROPOSED LEGISLATION FOR 2022 SESSION. The state legislature is considering legislation that would require a registry for short-term rentals. If adopted, this legislation will impact how North Hero can and may want to regulate short-term rentals. A summary and status update of this legislation follows:

S.210 An Act Relating to Rental Housing Health and Safety and Affordable Housing – Passed the Senate on 2/10/22, now in the House. The bill would establish a rental housing registry, maintained by the Agency of Commerce and Community Development, that would provide more exemptions than those proposed in S.79 (vetoed by governor last year). By March 1 of each year, the owner of a rental unit must register and pay a fee of \$35 per unit unless the unit is registered with a municipality or other local registration program. Exceptions include mobile homes on certain lots; units not offered to the general public; accessory dwelling units; non-winterized seasonal units; housing provided as a benefit of farm employment; or units rented for fewer than 90 days. Failure to register would result in a fine of up to \$200.

HOW MANY SHORT-TERM RENTALS ARE CURRENTLY LOCATED IN NORTH HERO?

North Hero has 20-40 short-term rentals depending on time of year. The number of active listings appears to follow a seasonal trend, with the highest number of short-term rentals being listed in the summer months.

Entire homes listed as short-term rentals

Select listing type

All available listings

Date

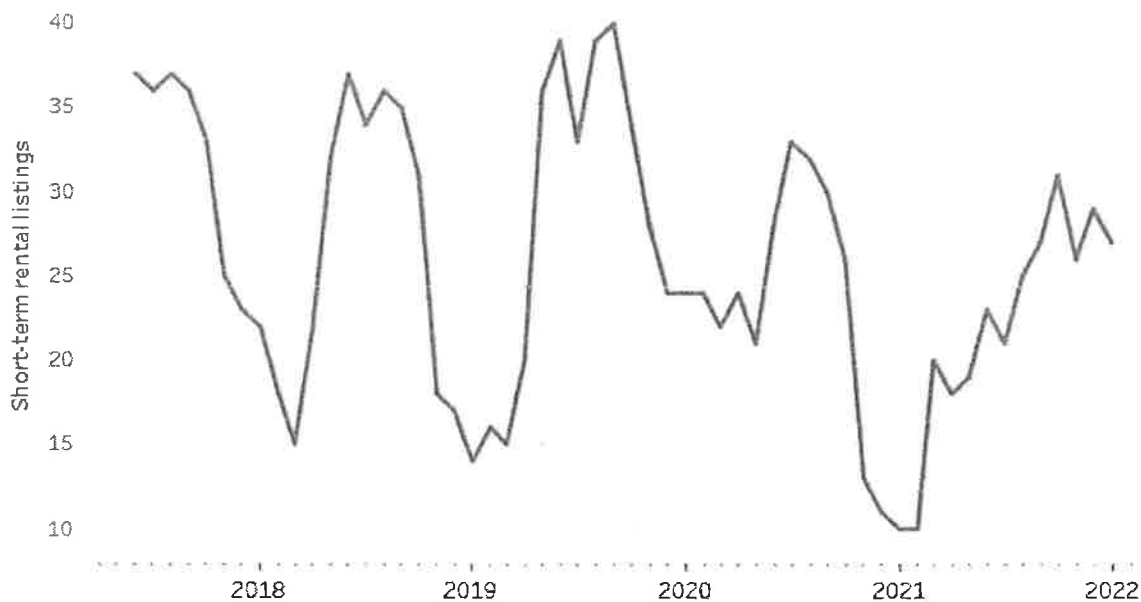
6/1/2017

1/1/2022



Location

North Hero



HOW ARE SHORT TERM RENTALS CURRENTLY REGULATED IN NORTH HERO? North Hero does not currently regulate short-term rentals. North Hero does regulate lodging establishments and bed & breakfasts. Current standards for those uses are listed below.

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

Zoning District	Status
Village	Conditional
Rural Lands	Conditional
Shorelands	Conditional
Off Island	Conditional
Conservation	Prohibited

- Parking Standard: 1 space per guest room
- Sign Standard: 1 One free-standing sign, maximum size forty (40) square feet and the maximum height shall be eight (8) feet; One free-standing sign is allowed, maximum size forty (40) square feet and the maximum height shall be eight (8) feet.
- Screening may be required under conditional use.

Bed and Breakfast: Overnight accommodations and a morning meal in a single family residence provided to transients for compensation.

Zoning District	Status
Village	Conditional
Rural Lands	Conditional
Shorelands	Conditional
Off Island	Conditional
Conservation	Prohibited

- Parking Standard: As required by DRB.
- Considered a "residential accessory use", while a lodging establishment is considered a "commercial use".
- Screening may be required under conditional use.

HOW CAN NORTH HERO REGULATE SHORT TERM RENTALS? Municipalities are enabled to regulate short-term rentals with zoning, ordinance or both. One of the challenges of regulating short-term rentals is that the use can vary significantly depending on number of bedrooms and occupancy limits, frequency and duration of rental and owner occupancy.

Regulating Short-Term Rentals with Zoning: Regulation of short-term rentals with zoning requires that they fall under a use category such as *dwelling unit* or *lodging* or by adding *short-term rental* as a specific use that is either permitted, conditional or not allowed in each zoning district.

The zoning regulation will apply to new or modified short-term rentals only; those that pre-exist the bylaw are considered pre-existing nonconformities and are able to continue to exist in their pre-existing form without a permit. Additionally, once issued a zoning permit does not expire and runs with the land; the use may continue as long as the standards and conditions of the permit are met.

Zoning standards that can be applied to short-term rentals include dimensional and site plan standards, such as setbacks, parking and conditional use standards, such as character of the area. A certificate of occupancy may require that state permits and inspections be in place before issuance.

Many communities have adopted specific use standards to regulate details such as maximum occupancy, quantity of rentals per property, form of management and owner occupancy; however, in most cases these specific standards are more appropriate for regulation by ordinance under the broad enabling statute (24 V.S.A. 2291) and/or by deference to state permits. The zoning enabling statutes (24 V.S.A. 4411, 4412, 4413, 4414) allows for zoning standards that regulate the intensity of land use through site plan and conditional use review by zoning district; all zoning standards should meet this intent.

Regulating Short-Term Rentals with Ordinance: Municipalities may be interested in knowing the quantity and location of short-term rentals (registration), ensuring there is a local point of contact to deal with any party/noise/public safety issues and limiting the total number of short-term rentals to ensure there's enough housing for locals. Under the broad enabling statute (24 V.S.A. 2291), ordinances provide more flexibility than zoning bylaws in developing rules for short-term rentals and can effectively regulate these types of issues. Ordinances will apply to all short-term rentals in the community; there is no protection for pre-existing nonconformities. Finally, ordinances may be adopted quickly and enforced through municipal ticketing.

Regulating Short-Term Rentals with Bylaw and Ordinance: Some communities may find it appropriate to regulate short-term rentals with zoning and ordinance. For example, a zoning permit will confirm that the short-term rental is allowed within a particular district and meets a minimum standard for parking, while the ordinance may require the short-term rental to register annually.

HOW ARE OTHER VERMONT MUNICIPALITIES REGULATING SHORT-TERM RENTALS? Many Vermont municipalities are currently regulating short-term rentals with zoning bylaws that address short-term rentals specifically, such as Woodstock and Killington. Others are regulating by ordinance such as Burlington (proposed) and Plymouth. Many more municipalities use zoning to regulate short-term rentals no differently than dwelling units or under existing use definitions for lodging. These regulations can be found by a simple search on each municipality's website.

NORTH HERO DEVELOPMENT REGULATIONS

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

DRAFT 3/18/22

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

*This project was funded in part by the Municipal Planning Grant Program
administered by the Vermont Department of Economic, Housing, and
Community Development.*

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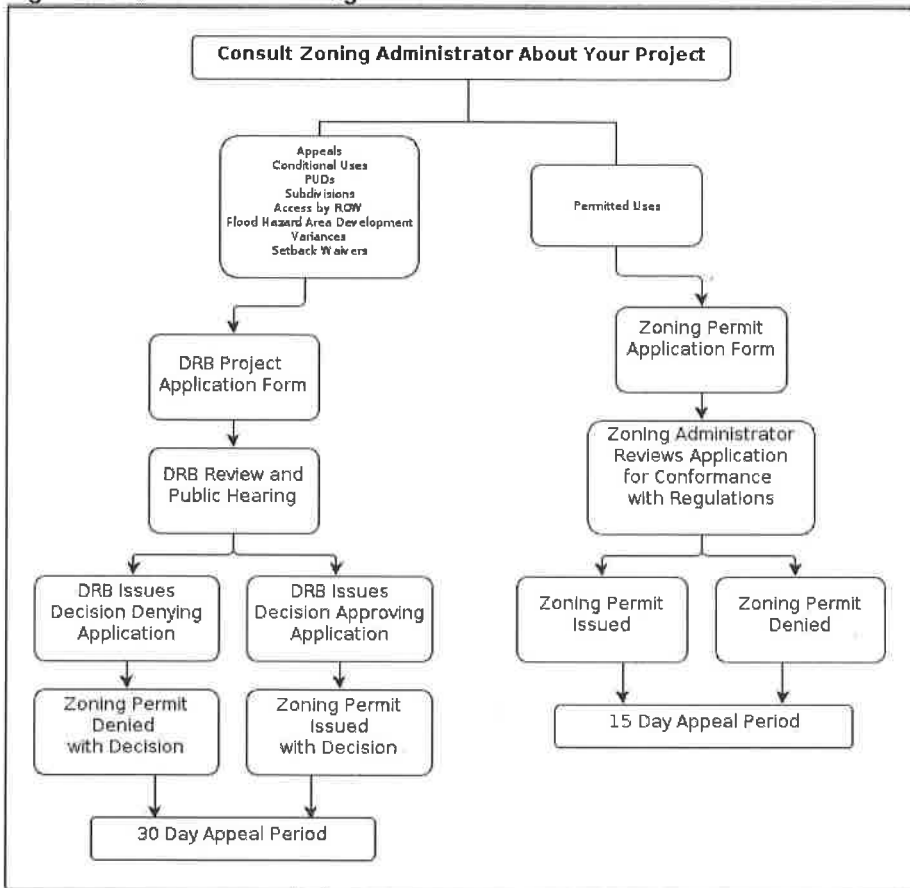
Zoning Map

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Reference Materials

- 1) The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117 V.S.A (The Act).
- 2) Accepted Agricultural and Best Management Practices as adopted in rules by the Agency of Agriculture.
- 3) Vermont Rail Garden Plant List
- 4) Elmore Roots Vermont Native Plant List
- 5) The Vermont Invasive and Exotic Plant Committee's List
- 6) Vermont Stormwater Management Manual
- 7) Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites
- 8) Shoreline Stabilization Handbook for Lake Champlain and other Inland Lakes
- 9) VT Lakeshore Protection Series #3 Plants and Plantings on Lakeshores

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



2
3

1 **ARTICLE 1: AUTHORITY AND PURPOSE**

2
3 **SECTION 1.1: ENACTMENT (SECTION 110)**

4
5 The North Hero Development Regulations set forth in the following text and map are
6 hereby established pursuant to the Vermont Municipal and Regional Planning and
7 Development Act, 24 V.S.A., Chapter 117 (hereinafter referred to as the "Act").
8

9 **SECTION 1.2: PURPOSE (SECTION 120)**

10
11 The intent of these Regulations is to provide for orderly community growth and to further
12 the purposes established in the North Hero Town Plan and in the Act.
13

14 **SECTION 1.3: APPLICATION OF REGULATIONS (SECTION 130)**

15
16 **No land development shall take place unless in compliance with the North Hero**
17 **Development Regulations.** Land Development is defined as the division of a parcel
18 into two (2) or more parcels; the new construction, reconstruction, conversion, structural
19 alteration, relocation, or enlargement of any building or other structure; any mining or
20 earth resource extraction; or any change in the use of any building, other structure, or
21 land, or extension of the use of land.
22

23 Any use that is not permitted by these bylaws is prohibited.
24

25 **SECTION 1.4: STATUTORY EXEMPTIONS (SECTION 401)**

26
27 The following uses and structures are specifically exempted from municipal land use
28 and development regulations by Vermont State law. In accordance with the Act
29 [§4413], no municipal Zoning Permit or approval under these Regulations shall be
30 required for:
31

- 32 1) Accepted agricultural and best management practices (AAPs, BMPs) as adopted in
33 rules by the Agency of Agriculture (see www.vermontagriculture.com), including farm
34 structures, as defined by the Secretary of Agriculture, Food and Markets in
35 accordance with the Act (Title 6 §4810). However, written notification, including a
36 sketch plan of the farm structure showing setback distances from road rights-of-way,
37 property lines, and surface waters shall be made to the ZA prior to any construction
38 as required under the AAPs. Agricultural practices that are governed by the AAPs
39 include, but are not limited to the following:
40 a) The confinement, feeding, fencing, and watering of livestock.
41 b) The handling of livestock wastes and by-products.
42 c) The collection of maple sap and production of maple syrup.
43 d) The preparation, tilling, fertilization, planting, protection, irrigation and harvesting
44 of crops.

Commented [GB1]: The statement "Any use that is not permitted by these bylaws is prohibited" is not the Dillon's Rule, and actually a bit misleading since many uses are exempt and do not require a zoning permit. We recommend highlighting this statement, which speaks to all land development needing to comply with these regulations.

Commented [GB2R1]: For more information on Dillon's Rule visit this website: <https://www.vlct.org/municipal-assistance/municipal-topics/municipal-governance#:~:text=Vermont%20is%20a%20Dillon's%20Rule,named%20after%20Judge%20John%20F.>

Commented [EK3]: Dillon's Rule

- 1 e) The ditching and subsurface drainage of farm fields and the construction of farm
2 ponds.
3 f) The stabilization of farm field streambanks constructed in accordance with the
4 United States Department of Agriculture Natural Resources Conservation
5 Service standards and specifications or other standards approved by the
6 Commissioner.
7 2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the
8 Commissioner of Forests, Parks, and Recreation, pursuant to the Act.
9 3) Public utility power generating plants and transmission facilities that are regulated by
10 the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered
11 wind generation facilities and solar panels.
12 4) Hunting, fishing or trapping on public or private land as specified by the state [under
13 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as
14 firing ranges, rod and gun clubs, and fish and game clubs, which are subject to
15 these Regulations.

16
17 **SECTION 1.5: INTERPRETATION (SECTION 140)**
18

19 These Regulations shall not repeal, abrogate or impair any other applicable land use
20 controls (including statutes, regulations, rules, ordinances, permits, easements, deed
21 restrictions, covenants or similar devices). However, in their interpretation and
22 application, the provisions of these Regulations shall be held to be minimum
23 requirements which shall take precedence over any concurrent and less restrictive such
24 control. It is also hereby stated that in any conflict or dispute involving these
25 Regulations, that the intent shall be considered in resolving any ambiguity.
26

27 **SECTION 1.6: SEVERABILITY (SECTION 160)**
28

29 If any portions of these Regulations are held unconstitutional or invalid by a court of
30 competent jurisdiction, the unaffected portions shall remain in force, and for this
31 purpose the provisions of the Regulations are severable.
32

33 **SECTION 1.7: AMENDMENTS (SECTION 150)**
34

35 These Regulations may be amended according to the requirements and procedures
36 established in 24 V.S.A. §4441 and §4442 of the Act.
37

38 **SECTION 1.8: APPLICATION UNDER PENDING AMENDMENT TO THESE**
39 **REGULATIONS**
40

41 In accordance with 24 V.S.A. §4449(d), once the North Hero Selectboard has issued a
42 public notice to amend these regulations, the Zoning Administrator shall review any new
43 application under both the proposed amendment and applicable existing regulations. If
44 the new bylaw or amendment has not been adopted or rejected within 150 days of that
45 notice or, if the bylaw is rejected, the application shall be reviewed under the existing
46 regulations. An application that has been denied under a proposed bylaw or

1 amendment that has not been adopted, or had been rejected, shall be reviewed again
2 at no cost under the existing regulations at the request of the applicant.

3

4 **SECTION 1.9: EFFECTIVE DATE (SECTION 180)**

5

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

8

9

10

11

1 **ARTICLE 2: ADMINISTRATION AND ENFORCEMENT**

2
3 **SECTION 2.1: ADMINISTRATION**

4
5 **A) Zoning Administrator (ZA) (Section 320).** The Selectboard shall appoint, from
6 nominations submitted by the Planning Commission, a Zoning Administrator (ZA) for
7 a term of three (3) years in accordance with the Act §4448. The ZA is a municipal
8 employee, reporting to the Planning Commission. An acting or assistant ZA may
9 also be appointed by the Selectboard pursuant to the Act. The ZA shall literally
10 administer and strictly enforce the provisions of these Regulations.

11
12 **B) Development Review Board (DRB).** The DRB shall be appointed by the
13 Selectboard in accordance with 24 V.S.A. §4460. The DRB shall work as
14 cooperatively with applicants as possible and shall hear and decide applications for:

- 15
16 1) Appeals of ZA decisions;
17 2) Conditional Use Review;
18 3) PUD approval;
19 4) Subdivision approval;
20 5) Access by right-of way to lots without frontage;
21 6) Development in the Flood Hazard Area Overlay District;
22 7) Variances;
23 8) Setback Waivers.

24
25 **SECTION 2.2: FEES (SECTION 322)**

26
27 The Selectboard will establish fees for Zoning Permits, Certificates of Occupancy,
28 Certificates of Compliance, and DRB review. Such fee(s) shall include the costs of
29 public notice, public hearings, and site visits. Fees must be paid for applications to be
30 considered complete. Fees are non-refundable.

31
32 **SECTION 2.3: ZONING PERMITS ISSUED BY THE ZONING ADMINISTRATOR**
33 **(SECTION 323)**

34
35 **A)** Within thirty (30) days of receipt of a completed application for land development,
36 including all application materials and fees, the ZA shall issue or deny a Zoning
37 Permit in writing, return the application for completion, or refer the application to the
38 DRB for their review and action. In the case of a referral, the ZA shall issue or deny
39 a Zoning Permit in conjunction with the issuance of a DRB decision. If a Zoning
40 permit is denied, the ZA shall so notify the applicant in writing, stating the reasons
41 for denial. If the ZA fails to act on a complete application by issuance, denial or
42 referral within the 30 day period, the permit shall result in deemed approval.

- 43
44 1) When the ZA issues a Zoning Permit, the applicant shall post a permit notice, on
45 a form provided by the Town of North Hero, within view of the public right-of-way

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

5 2) Within three (3) days following the issuance of a Zoning Permit, the ZA shall post
6 a copy of the permit in the Town Clerk's Office until the expiration of the appeal
7 period and deliver a copy of the permit to the Listers.

8 3) Within 30 days after a Zoning Permit has been issued or within 30 days of the
9 issuance of any notice of violation, the appropriate municipal official shall:

10 a) deliver the original or a legible copy of the municipal land use permit or notice
11 of violation generally in the form set forth in 24 V.S.A. §1154(c) of this title to
12 the Town Clerk for recording as provided in 24 V.S.A. §1154(a); and

13 b) file a copy of that municipal land use permit in the offices of the municipality in
14 a location where all municipal land use permits shall be kept.
15

16 **SECTION 2.4: APPLICATIONS BEFORE THE DRB (SECTION 380)**

17
18 **A) Public Hearing/Public Notice Requirements for DRB Decisions.** A public
19 hearing in accordance with Section 4463(a) and 4464(a) of the Act is required before
20 the DRB may issue any decision. Notice for public hearings shall be given not less
21 than 15 days prior to the date of the public hearing in the following ways:
22

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

29 All public notices will be created by the Town of North Hero. Town personnel will
30 be responsible for all public notice postings.
31

32
33 2) Written notification to the applicant and to owners of all properties adjoining the
34 property subject to development. Adjoining properties include those that are
35 divided by a highway or other public right-of-way. Written notification shall
36 include a description of the proposed project and shall be accompanied by
37 information that clearly informs the recipient where additional information may be
38 obtained, and that participation in the local proceeding is a prerequisite to the
39 right to take any subsequent appeal.
40

41 Written notification to the applicant and abutters shall be completed by the Town
42 of North Hero.
43

44 **B) Continued Public Hearings.** The DRB may continue a hearing on any application
45 or appeal pending the submission of additional information affecting the approval
46 under question, provided that the next hearing date, time, and place are announced

1 at the hearing. If a hearing is adjourned, postponed or continued with no date
2 certain, or if a hearing date is changed, the hearing will be reconvened with full
3 notice of the hearing according to 2.4(A) above.
4

5 **C) DRB Decisions.** The DRB shall prepare a written decision for all land development
6 applications referred from the ZA within 45 days after the adjournment of the public
7 hearing. Failure to issue a decision within the 45-day period shall result in deemed
8 approval. All decisions shall be issued in writing and shall separately state findings
9 of fact and conclusions of law. The decision shall also include a statement of the
10 time within which appeals under Section 2.5 may be taken. The minutes of a
11 meeting may suffice as a decision, provided that the factual basis and conclusions
12 relating to the review standards are provided in accordance with these
13 requirements. In making a decision in favor of the applicant, the DRB may attach
14 conditions and safeguards as it deems necessary to implement the purposes of the
15 Act, these regulations, and the Town Plan currently in effect.
16

17 Decisions shall be issued according to the following procedure:

- 18 1) The Board's decision shall be submitted to the ZA who shall issue or deny a
19 Zoning Permit in accordance with the decision and send the decision along with
20 the Zoning Permit or denial by certified mail to the applicant.
- 21 2) Copies of each decision shall also be mailed to every person or body appearing
22 and having been heard as an interested party at the hearing.
- 23 3) Copies shall be filed with the ZA and the Town Clerk as part of the public records
24 of the Town, including memorandums of municipal action.
25

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

- 36 1) Subdivision Approval (preliminary and final)
- 37 2) Planned Unit Development Approval
- 38 3) Conditional Use Review
- 39 4) Requests for Variances and Setback Waivers
- 40 5) Access by Right-of-Way
41

42 All hearing and decision requirements, and all deadlines applicable to each review
43 process, shall apply. Separate written decisions may be issued for each review
44 conducted as part of the combined review, but shall be coordinated for consistency
45 where appropriate.
46

1 **SECTION 2.5: APPEALS (SECTION 385)**
2

3 **A) Appealing Decisions of the Zoning Administrator.** The applicant or any
4 interested person (as defined in the Act § 4465(b)) may appeal any decision or act
5 taken by the ZA by filing a written Notice of Appeal with the Town Clerk and filing a
6 copy of the Notice of Appeal with the ZA within 15 days of the Act or decision. The
7 Notice of Appeal will not be considered complete without the applicable fee (Section
8 2.2).

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

32
33 **B) Appealing Decisions of the DRB.** The applicant or any other interested person
34 who has participated in a municipal regulatory proceeding as defined in the Act
35 Section 4471 may appeal any decision of the DRB within 30 days of such decision to
36 the Vermont Environmental Court.
37

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

- 40 1) Certified Mailing, with fees, to the Environmental Court;
41 2) Mailing a copy to the DRB Clerk, who shall provide a list of interested persons to
42 the appellant within 5 working days; and
43 3) Upon receipt of the list of interested persons, the appellant shall, by certified mail,
44 provide a copy of the Notice of Appeal to every interested person.
45

1 **SECTION 2.6: VIOLATIONS AND ENFORCEMENT (SECTION 335)**
2

3 **A) Violations.** The commencement or continuation of any land development,
4 subdivision, or use, which is not in conformance with these Regulations, is a
5 violation. Any person who is found in violation of these Regulations shall be fined
6 not more than the amount permitted under the Act § 4451. Each day that a violation
7 is continued shall be a separate offense. All fines imposed and collected shall be
8 paid to the Town of North Hero.
9

Commented [EK4]: Ask NRPC about this. Does state set this or does Town

Commented [GB5R4]: 24 VSA§4451(a)(3) states "Each day that a violation is continued shall constitute a separate offense."

10 **1) Enforcement Remedies.** In accordance with the Act § 4452, if any street,
11 building, structure or land is or is proposed to be erected, constructed,
12 reconstructed, altered, converted, maintained, or used in violation of these
13 Regulations, the ZA shall institute in the name of the Town any appropriate
14 action, injunction or other proceeding to prevent, restrain, correct, or abate such
15 construction or use, or to prevent, in or about such premises, any act, conduct,
16 business, or use constituting a violation. A court injunction may be initiated in the
17 Environmental Court, or as appropriate before the Judicial Bureau, as provided
18 under the Act § 1974a.
19

20 **2) Notice of Violation.** No action may be brought under this section unless the
21 alleged offender has had at least seven days warning notice by certified mail. An
22 action may be brought without the seven-day notice and opportunity to cure if the
23 alleged offender repeats the violation of the bylaw or ordinance after the seven
24 day notice period and within the next succeeding 12 months. The seven-day
25 warning notice shall state that a violation exists, that the alleged offender has an
26 opportunity to cure the violation within the seven days, and that the alleged
27 offender will not be entitled to an additional warning notice for a violation
28 occurring after the seven days.
29

30 **C) Limitations on Enforcement.** North Hero shall observe the 15 year limitation on
31 enforcement proceedings relating to municipal permits and approvals as set forth in
32 the Act [§ 4454].
33
34
35

1 **ARTICLE 3: ZONING DISTRICTS**

2
3 **SECTION 3.1: ESTABLISHMENT OF ZONING DISTRICTS (SECTION 200)**

4
5 **A) Zoning Districts.** The Town of North Hero is hereby divided into the following
6 Zoning Districts as shown on the Official Zoning Map:

7
8 **1) Village District (V) (Section 250).** The Village District is located along City Bay
9 extending south to Station Road, west approximately 450 feet from Route 2, and
10 to the north side of Northland Lane. It also extends about 850 feet west along
11 Northland Lane. The Village District is characterized primarily by single and two-
12 family residences, but also includes a mix of commercial, municipal and
13 recreational uses. The density of development is low (2-acre minimum lot size);
14 however, relatively higher than the surrounding Rural District. The purpose of
15 the Village District is to maintain and further this traditional village character.

16
17 **2) Rural Lands District (RL) (Section 220).** The Rural Lands District consists of
18 the balance of land in North Hero that is not designated as Village, Shorelands,
19 Conservation, or Off Islands District. While farming is the primary use in this
20 District, low density residential areas, as well as recreational, commercial and
21 light industrial uses may be approved with careful review by the DRB.
22 Development review shall focus on siting development to maintain the rural
23 character of this District, which consists of open agricultural land with views of
24 Lake Champlain, the Adirondacks and the Green Mountains.

25
26 **3) Conservation District (C) (Section 210).** This District contains all those lands
27 within North Hero requiring the most protection and is composed mainly of low
28 swampy sections serving as cover and habitat for many forms of wildlife. These
29 lands include but are not limited to Class 1 and Class 2 wetlands as defined by
30 the Vermont Department of Environmental Conservation (DEC). These lands
31 may be subject to regulations administered through the Vermont Agency of
32 Natural Resources (ANR). This area is designated as a conservation zone and
33 all development is prohibited.

34
35 **4) Shorelands District (SL) (Section 230).** This District includes all land above
36 the mean water mark of Lake Champlain (elevation 95.5 feet) inland for a
37 distance of five hundred (500) feet. The purpose of the Shoreland District is to
38 preserve water quality, prevent erosion, and regulate the visual character and
39 aesthetic setting of shorelines. Low-density residential development and
40 carefully sited commercial uses are appropriate in the Shorelands District.
41 Building siting should take into consideration the preservation of views and
42 include appropriate landscaping and screening. ~~Land development in the~~
43 ~~Shorelands District shall comply with Section 7.8 Shoreline Protection.~~

44
45 All land development within two hundred fifty (250) feet of the Lake Champlain
46 mean water mark (95.5 ft lake level) in the Shorelands District is subject to

Commented [EK6]: North Hero question - Mean level of Lake Champlain, 99 is mean -consistent with state language

Commented [GB7R6]: According to Vermont ANR Statute and Rule, mean water level for Lake Champlain is 95.5

Commented [EK8]: Add 11/23/21

1 compliance with the Vermont Shoreland Protection Act Permit Program. The
2 exception to this would be land that is located on the non-lake side of a municipal
3 or state road, but within 250 feet mean water level. This land does not need to
4 conform to the Shoreland Protection Act. Land on the non-lake side of a private
5 road, however, does have to comply with the Shoreland Protection Act.
6 <https://dec.vermont.gov/watershed/lakes-ponds/permit/shoreland>
7

8 **5) Off Islands District (OI) (Section 240).** This District includes several small
9 islands that are only accessible by boat, including: Butler, Knight, Gull, Hen,
10 Diadama (Dameas) and Grand Ma's. In this District, environmental concerns
11 and the availability of Town services make these areas distinct from other areas.
12 Development review should encourage the preservation of public access from
13 North Hero to these islands.
14

15 **6) Flood Hazard Overlay District:** This District is established to protect the
16 Town's flood hazard areas. The Overlay District imposes an additional layer of
17 regulations upon the affected lands (see Article 10). Where the provisions of the
18 underlying district differ from those in the Flood Hazard Overlay District, the more
19 restrictive shall govern.
20

21 **B) Official Zoning Map.** The Official Zoning Map shall consist of the poster sized
22 Town of North Hero Zoning Map located in the Town Clerk's Office¹. It shall be
23 identified by the signatures of the Selectboard. Regardless of the existence of
24 copies, which may be made from time to time, the signed Official Zoning Map shall
25 be the final authority as to the zoning status of all land and water areas in the Town
26 of North Hero. No changes of any nature shall be made to it except in conformance
27 with the formal amendment procedures and requirements set forth in the Act,
28 Sections 4441 and 4442. A copy of the Zoning Map is included on Page 12.
29

Commented [GB9]: Is there a question on this section?

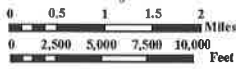
30 **C) Interpretation of Boundaries (Section 260).** Where uncertainty exists with respect
31 to the boundary of any Zoning District, the following rules shall apply:
32 1) Boundaries indicated as approximately following the centerlines of roads,
33 streams, transportation and utility rights-of-way, shall be construed to follow such
34 centerlines. The abandonment of roads and/or rights-of-way shall not affect the
35 location of boundaries.
36 2) Boundaries indicated as approximately following lot lines shall be construed to
37 follow such lot lines.
38 3) Boundaries indicated as following shorelines shall be construed as the normal
39 mean water level.
40 4) Boundaries indicated as parallel to, or as extensions of features in (1), (2), and
41 (3) above shall be so construed.
42 5) When the ZA cannot definitely determine the location of a district boundary line

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

1
2
3
4
5
6

by the above rules or by the scale or dimensions on the Official Zoning Map, the DRB shall interpret the district boundaries.

ZONING MAP Town of North Hero



LEGEND

Zoning Features

- Village District
- Shoreland District
- Conservation District
- Rural Lands District
- Off Islands District

Transportation Features

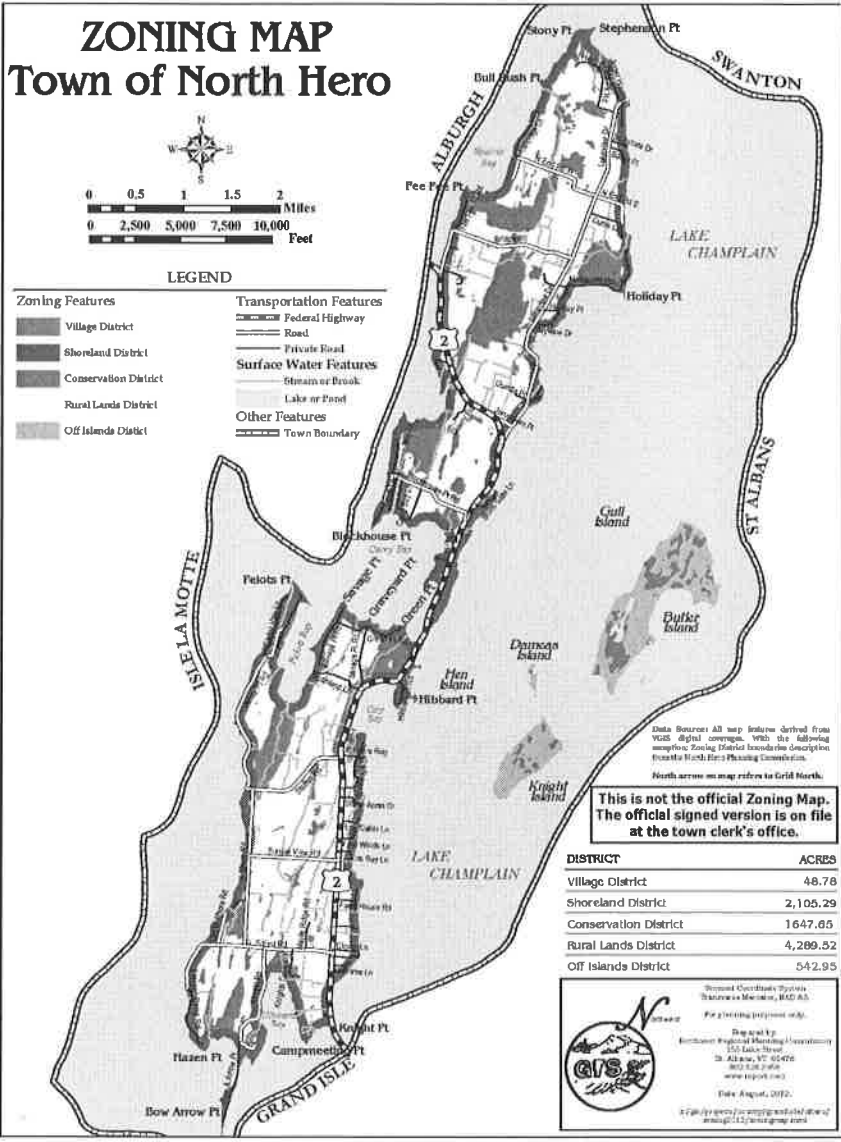
- Federal Highway
- Road
- Private Road

Surface Water Features

- Stream or Brook
- Lake or Pond

Other Features

- Town Boundary



Data Sources: All map features derived from VGS digital coverage, with the following exception: Zoning District Descriptions provided by North Hero Planning Commission.
North arrow on map refers to Grid North.

This is not the official Zoning Map. The official signed version is on file at the town clerk's office.

DISTRICT	ACRES
Village District	48.78
Shoreland District	2,105.29
Conservation District	1,647.65
Rural Lands District	4,289.52
Off Islands District	542.95



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 802.253.2858 or email brc@brcvt.com

1 **ARTICLE 4: ZONING PERMITS AND CERTIFICATES OF**
2 **OCCUPANCY**

4 **SECTION 4.1: ZONING PERMITS (SECTION 325)**

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

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

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

24 **B) Zoning Permit Exemptions (Land**
25 **Development that Does Not Require a**
26 **Zoning Permit).** The following land use
27 activities do not require a Zoning Permit:

- 28 1) Statutory exemptions listed in Section 1.4
- 29 2) Land uses classified as Exempt in Table
30 5.1.
- 31 3) Fences 6 feet or less in height.

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

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

Figure 4.1

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

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

1 **E) Zoning Permit Requirements.**

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

11
12 **F) Zoning Permit Effective Date.**

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

Commented [EK10]: North Hero question - Need form for the applicant for a permit

Commented [GB11R10]: Please explain

23
24 **G) Permit Filing Requirements**

- 25 1) As a condition of every permit, it is the obligation of the applicant is required to
- 26 file all relevant State and Federal permits with the Zoning Clerk.

27
28 **SECTION 4.2: CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF**
29 **COMPLIANCE (SECTION 328)**

30
31 ~~A) — Certificate of Occupancy. A Certificate of Occupancy (CO) is required~~
32 ~~following the issuance of a Zoning Permit when construction is complete but~~
33 ~~prior to occupancy or initiation of use of any land development in accordance~~
34 ~~with this Section.~~

Commented [EK12]: Is it allowable to delete COO requirement? If so, how do other towns deal with it? Lawyer suggests deleting this [COO section]

Commented [GB13R12]: A CO is different than a CC. Basic CO language has been inserted and CC permit remains as is.

35
36 ~~1) — Certificate of Occupancy Form. A CO form shall be supplied to applicants~~
37 ~~with the Zoning Permit or may be obtained from the North Hero Town Clerk's~~
38 ~~Office.~~

39
40 ~~2) — Certificate of Occupancy, Minor and Major. There are two (2)~~
41 ~~classifications of CO's - minor and major.~~

42 ~~a) — The following land development shall require a minor CO:~~

43 ~~• Accessory structures~~

44 ~~• Additions or expansions to existing structures where there is no change in~~
45 ~~use.~~

1 b) ~~— All land development not qualifying for a minor CO, including all principal~~
2 ~~structures, shall require a major CO.~~
3 3) ~~— Minor Certificate of Occupancy Process. Applicants shall complete a CO~~
4 ~~form and by signing the form certify that the land development has been~~
5 ~~constructed and will be used in compliance with the Zoning Permit. Following~~
6 ~~receipt of the complete and signed CO form, the ZA shall approve and record the~~
7 ~~CO.~~
8
9 4) ~~— Major Certificate of Occupancy Process. Applicants shall complete a CO~~
10 ~~form and by signing the form certify that the land development has been~~
11 ~~constructed and will be used in compliance with the Zoning Permit.~~
12
13 a) ~~— First Site Investigation. Upon receipt of a completed CO form, the ZA shall~~
14 ~~conduct a site investigation at the time that pins are set for the pouring of a~~
15 ~~concrete foundation or slab to confirm that all setbacks will be met. At this time,~~
16 ~~the proposed location for any decks, porches or other permitted building~~
17 ~~attachments or outbuildings should also be identified.~~
18
19 For single and two family homes, the applicant may request that the ZA issue a
20 CO following the first site visit if the project is found to be in compliance. All
21 other land development requires a second site investigation when the project is
22 complete.
23
24 b) ~~— Second Site Investigation. For all permitted development (except for single~~
25 ~~and two family homes where exception has been granted), the ZA shall conduct a~~
26 ~~second site visit when the permitted development is complete, but prior to~~
27 ~~occupation. A complete development shall include all features permitted and~~
28 ~~conditioned by the Zoning Permit and DRB Decision. At a minimum, buildings~~
29 ~~shall have all walls and roofing in place, required landscaping shall be installed~~
30 ~~according to permit requirements and off-street parking spaces shall be~~
31 ~~identified. The only exception shall be for phased improvement plans approved~~
32 ~~by the DRB.~~
33
34 c) ~~Issuance of a CO. If the site inspection(s) find that no violations have~~
35 ~~occurred, the ZA shall approve and record the CO within 30 days of receipt of~~
36 ~~the completed CO form. A) Certificate of Occupancy. All new principal~~
37 ~~structures, additions to principal structures, and accessory dwelling units that have~~
38 ~~been issued a zoning permit shall receive a Certificate of Occupancy from the~~
39 ~~Zoning Administrator before such structures may be occupied for their intended use.~~
40 ~~A Certificate of Occupancy shall be issued by the Zoning Administrator if the~~
41 ~~following criteria have been met:~~
42 1) The structure and the use of the property conform to the applicable zoning permit
43 and the provisions of these regulations. A site visit to the subject property by the
44 Zoning Administrator may be required to ensure conformance with this
45 requirement.

Commented [GB14]: This exempts accessory structures. Is this what you want?

- 1 2) The structure and/or use has a Wastewater and Potable Water Supply Permit
2 from the State of Vermont, if required.
3 3) The structure has a 911 address number displayed in a location that is visible
4 from the road (public or private).
5 4) The structure and/or use complies with all other applicable Town ordinances and
6 regulations.
7 5) If a certificate is required per 30 V.S.A. §51 (residential building energy standards)
8 or 30 V.S.A. §53 (commercial building energy standards), a signed copy of such
9 certificate shall be provided to the Zoning Administrator before the issuance of a
10 Certificate of Occupancy.
11

12 **AB) Certificate of Compliance.** Although not required, a Certificate of Compliance
13 may be requested at any time to determine a property's compliance with these
14 Regulations during real estate transactions.

15
16
17 **SECTION 4.3: TEMPORARY USES AND STRUCTURES (SECTION 326)**

18
19 A) Temporary permits may be issued by the ZA for a period not exceeding one (1) year
20 for non-conforming uses incidental to construction projects, provided such permits
21 are conditioned upon agreement by the owner to remove the structure or use upon
22 expiration of the one (1) year time period. Such permit may be renewed upon
23 application for an additional period not exceeding one year.
24

25 **SECTION 4.4: ABANDONED AND DESTROYED STRUCTURES (SECTION 330)**

26
27 A) Within two (2) years after a permanent or temporary structure has been destroyed,
28 demolished, or become structurally unsafe, the landowner must present to the DRB
29 a plan for the removal of debris and material, along with a plan for the purpose of
30 safeguarding the area from trespass. In the case of an expired building permit,
31 reapplication can be made in accordance with Section 4.1. Violations will be
32 regulated in accordance with Section 2.6.
33

Commented [EK15]: Many complaints for "structurally unsafe" is difficult to define.
Commented [EK16R15]: See language for consideration-separate document

1 **ARTICLE 5: LAND USES, DENSITY AND SETBACK**
 2 **STANDARDS**

3
 4 **SECTION 5.1: LAND USES**

- 5
 6 **A) Allowed Uses.** Allowed uses may either be Permitted (P) or Conditional (C). All
 7 allowed uses require a Zoning Permit issued by the ZA.
 8 **1) Permitted Uses.** Permitted uses (P) require a Zoning Permit from the ZA only.
 9 No approval from the DRB is required.
 10 **2) Uses Requiring DRB Approval.** Uses that require Conditional Use Review
 11 require such approval from the DRB before the ZA may issue a Zoning Permit.
 12 Other DRB approvals included in Article 6 may also be required. For uses
 13 requiring multiple approvals, DRB review may be coordinated in accordance with
 14 Section 2.4(D).
 15
 16 **B) Exempt Uses.** Uses marked with an (E) in Table 5.1 are exempt and do not require
 17 a Zoning Permit. See also Section 1.4 (Statutory Exemptions) and Section 4.1(B)
 18 Zoning Permit Exemptions.
 19
 20 **C) Prohibited Uses.** Uses marked with an (X) in Table 5.1 are prohibited in the
 21 corresponding Zoning District(s).
 22
 23 **D) Uses Not Listed in Table 5.1.** Applicants may apply for Conditional Use Review
 24 from the DRB for uses not listed in Table 5.1. The DRB shall consider whether the
 25 proposed use is of the same general character as those allowed in the district in
 26 which the use is proposed before considering it for approval.
 27

Table 5.1: Land Uses
 P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)

Use	Notes	Village	Rural Lands	Shore -lands	Off Island	Conser- vation
Residential Uses						
Dwelling, Single Family		P	P	P	P	X
Dwelling, Two Family		P	P	P	P	X
Dwelling, Multi-Family		P	C	C	C	X
Dwelling, Agricultural (in addition to Principal Dwelling)	Section 8.3	C	C	C	C	X
Mobile Home Park	Section 8.4	C	C	C	C	X
Residential Accessory Uses						
Bed and Breakfast		C	C	C	C	X

Commented [EK17]: Should "Bar" be listed as a separate use?

Commented [GB18R17]: See Memo on regulation of bars

Commented [GB19]: Town can consider change 2-family dwelling to 2-4 family dwelling. And Multi-family is 5+ units

Commented [GB20]: Change reference to dwellings- family to household

Table 5.1: Land Uses

P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)

Use	Notes	Village	Rural Lands	Shorelands	Off Island	Conservation
Casual Sales (Garage Sale)		E	E	E	E	X
Dwelling, Accessory	Section 8.2	P	P	P	P	X
Home Business	Section 8.9	E	E	E	E	E
Home Occupation	Section 8.9	P/C	P/C	P/C	P/C	X
Family Childcare Home	Section 8.6	E	E	E	E	E
Commercial Uses						
Earth Resource Extraction	Section 8.5	X	C	X	X	X
Gas Station / Motor Vehicle Service Station	Section 8.7	C	C	C	X	X
Light Industry		C	C	X	X	X
Lodging Establishment Short-term rental		C	C	C	C	X
Marinas and Yacht Clubs	Section 8.12	C	X	C	X	X
Residential Marine Associations	Section 8.12	C	X	C	C	X
Motor Vehicle Sales or Mobile/Modular Home Sales		C	C	X	X	X
Personal and Professional Service		C	C	C	C	X
Recreational Facilities		C	C	C	C	X
Restaurant (Sit Down, Take Out, and Drive-Through)		C	C	C	C	X
Retail Sales		C	C	C	C	X
Storage Facilities		C	C	C	C	X
Youth or Club Camp		C	C	C	C	X
Other Uses						
Accessory Structure		P	P	P	P	X
Agriculture and Forestry	Section 1.4	E	E	E	E	X

Commented [EK17]: Should "Bar" be listed as a separate use?

Commented [GB18R17]: See Memo on regulation of bars

Commented [EK21]: We will adapt Montgomery memo for North Hero

Commented [EK22]: Changed this from Air BnB in pdf (generic name)

Commented [EK23]: Do shorter term rental properties fall under lodging establishments?

Commented [EK24]: Where does mother-in-law apt. fit in

Commented [EK25R24]: NRPC: This would be an Accessory Dwelling (already in use table) and must be permitted in all districts (except in Flood Hazard Area).

Table 5.1: Land Uses

P (Permitted use), C (Conditional Use), X (Prohibited), E (No Zoning Permit Required)

Use	Notes	Village	Rural Lands	Shorelands	Off Island	Conservation
Congregate Care Facility		C	C	C	X	X
Group Home	Section 8.8	E	E	E	E	X
Lake Access Structure	Section 8.10	X	X	P	P	X
Off-Grid Solar Arrays	Section 8.15	See Section 8.15				X
Place of Worship	Section 8.13	C	C	C	C	X
Public or Semi-Public Facilities	Section 8.13	C	C	C	C	X
Shoreline Stabilization Measures	Section 8.14	P	P	P	P	P
Small Off-Grid Wind Energy Generation System	Section 8.15	C	C	C	C	X
Temporary Use/Structure	Section 4.3	P	P	P	P	X
Wireless Telecommunications Facility	Section 8.17	C	C	C	C	X
<u>Personal Landing Areas</u>	<u>Section 8.18</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>X</u>	<u>X</u>

Commented [EK17]: Should "Bar" be listed as a separate use?

Commented [GB18R17]: See Memo on regulation of bars

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SECTION 5.2: DENSITY, SETBACK AND OTHER DIMENSIONAL STANDARDS.

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

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

Table 5.2: Density, Setback and Other Dimensional Standards

	Village, Shorelands, and Off Islands	Rural Lands	Conservation District
LOT SIZE			

Commented [GB26]: Do you want to group village with shorelands and off islands?

Table 5.2: Density, Setback and Other Dimensional Standards

	Village, Shorelands, and Off Islands	Rural Lands	Conservation District
Minimum Lot Size, Non-Residential	2 acres	23 acres	10 acres
Minimum Lot Size, Single Family	2 acres	23 acres	NA
Minimum Lot Size, Two and Multi-Family	2 acres for the first unit plus 1 acre per each additional residential unit (i.e. 3 acres for a duplex and 4 for a tri-plex)	23 acres for the first unit plus 1.5 acres per each additional residential unit (i.e. 34.5 acres for a duplex and 46 acres for a tri-plex)	NA
SETBACKS (FEET)			
State Highway	100 feet (NA in Off Island)	100 feet	NA
Town Road	75 feet	75 feet	NA
Lake Champlain	<u>NA - Regulated under the VT Shoreland Protection Act</u> 75 feet	NA	NA
Private Road & Deeded ROW	25 feet 50 feet – Front 25 feet – Side & Rear	25 feet 50 feet – Front 25 feet – Side & Rear	NA
Yard - Side & Rear	25 feet	25 feet	NA
Class 1 Wetland	100 feet	100 feet	100 feet
Class 2 Wetland	50 feet	50 feet	50 feet
Streams	50 feet	50 feet	50 feet
Personal Landing Areas	<u>Shoreland only:</u> 50 feet sides of runway 100 feet end of runway	50 feet sides of runway 100 feet end of runway	NA
HEIGHT RESTRICTIONS	35 feet	35 feet	NA
MAXIMUM LOT COVERAGE	20%	20%	NA
MINIMUM ROAD OR LAKE FRONTAGE	100 feet (on lake in Shoreland and Off-Island)	100 feet	NA
MINIMUM LOT WIDTH	100 feet	100 feet	NA

Commented [GB26]: Do you want to group village with shorelands and off islands?

Commented [EK27]: PC motioned on this- passed

Commented [GB28]: NRPC recommends reducing Village minimum lot size to at least 1 acre, if not smaller. What are historic lot sizes?

Commented [GB29]: Let's discuss this and why it's needed.

Commented [EK30]: Follow state guidelines in Shoreland Act

Commented [GB31R30]: Not applicable to frontage standard, which comes into play for subdivisions

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SECTION 5.3: USES AND STRUCTURES PER LOT (SECTION 420)

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

Figure 5.3

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

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

SECTION 5.4: FRONTAGE (SECTION 423)

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

Commented [EK32]: How to define- ask NRPC

Commented [GB33R32]: Measure frontage as frontage at the mean water line (95.5')

B) Lots without Frontage. No land development is permitted on parcels or lots that do not have any frontage on a public road or public waters, except with the approval of the DRB for an access by right-of-way. Under Conditional Use Review or Subdivision Review, the DRB may approve access to a parcel or lot without frontage on a public road or public waters by deeded right-of way at least twenty (20) feet in width (private roads may qualify). The DRB shall consider the intended use of the property, safety, traffic, road and site conditions in granting, conditioning, or denying approval. Access by right-of-way to more than 3 lots shall comply with the Town of North Hero Road Standards (See Section 7.7).

SECTION 5.5: SETBACKS (SECTION 500)

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

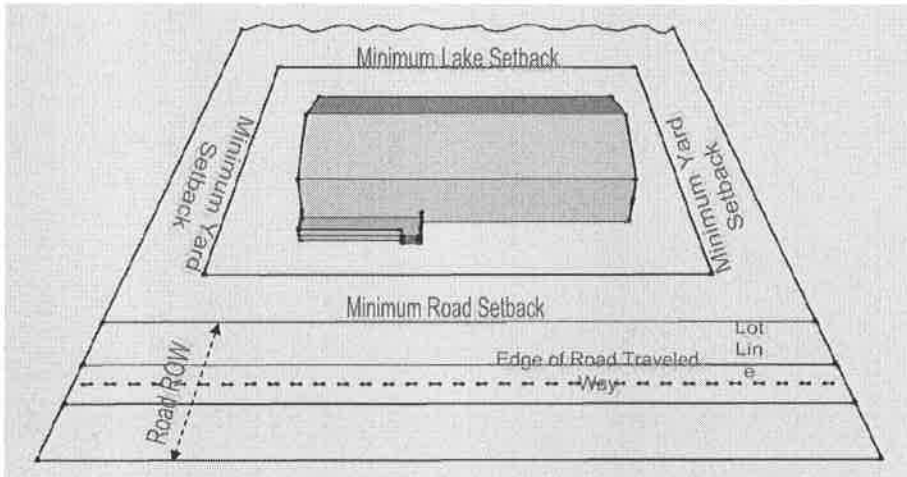
B) Measuring Setbacks. Setbacks shall be measured from the near edge of the road traveled way, from the top of the bank/mean water level of Lake Champlain (95.5'), from the near edge of a deeded ROW or from a property line, as applicable (See Figure 5.5).

Commented [EK34]: What is definition of "top of bank of Lake Champlain"?

Commented [GB35R34]: Setbacks to be measured at mean water level 95.5

Commented [EK36R34]:

Figure 5.5 Measuring Setbacks



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

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

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

The following land development is exempt from the lake setback provided it is not located below or beyond an elevation of 98 feet above sea level (where jurisdiction of the Army Corps of Engineers begins):

- Lake Access Structures (See Section 8.10).
- Open decks without roofs that do not project beyond the natural bank.
- Shoreline Stabilization Measures, including retaining walls and seawalls (See Section 8.14).
- Certain parking and storage areas permitted as part of a Marina or Yacht Club under Section 8.12.

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

Commented [EK37]: Does the front property line have to be Lake Champlain? Is this a state requirement?

Commented [GB38R37]: No not state requirement. Let's discuss.

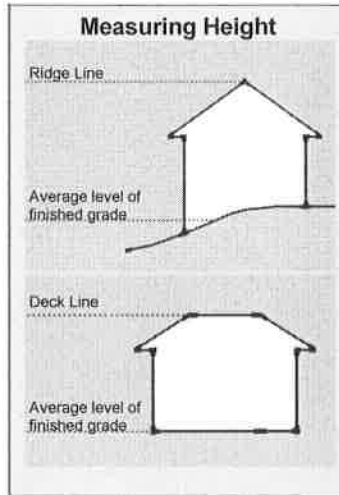
Commented [EK39]: Confirm Army Corps of Engineers jurisdiction begins at elev. 98'

Commented [GB40R39]: Begins at ordinary high-water mark which for Lake Champlain is defined as 98'. Documentation is in folder.

Commented [EK41R39]:

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

Figure 5.6



SECTION 5.6: HEIGHT (SECTION 422)

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

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

2) Exceptions to 35 Foot Height Maximum.

- a) Ornamental, symbolic, and other rooftop features of buildings and structures, including but not limited to spires, cupolas, belfries, domes, cooling towers, and rooftop solar arrays, are exempt from the 35 foot height maximum provided they are not used for human occupancy or commercial advertisement and do not exceed 45.0 feet in height above average finished grade.
- b) Small Off-Grid Wind Energy Generation Systems and Wireless Telecommunications Facilities are exempt from this Section; however, shall comply with the height restrictions in Section 8.15 and 8.17 respectively.
- c) Under Conditional Use Review, the DRB may approve heights greater than 35 feet.

SECTION 5.7: LOT COVERAGE (SECTION 413)

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

1 **ARTICLE 6: DRB APPROVALS**

2
3 **SECTION 6.1: CONDITIONAL USE REVIEW (SECTION 327)**

4
5 **A) Applicability:** The following uses require Conditional Use Review from the DRB:

- 6 1) Uses listed in Table 5.1 as conditional (C), including new uses, changing an
7 existing use to a different use, and expanding or modifying an existing use so
8 that is no longer conforms to its existing conditional use approval.
9 2) Uses not listed in Table 5.1.
10 3) Nonconformities (in some cases, see Section 9.2).
11 4) Structures with a height greater than 35 feet (Section 5.6).
12 5) Access by right-of-way to lots without frontage (Section 5.4).

13
14 **B) Purpose:** Conditional Use Review requires compliance with standards addressing
15 the impact of proposed land uses on adjacent properties, the neighborhood or
16 district in which the project is located, and the community at large. Conditional Use
17 Review also requires that building and site design is consistent with the purpose and
18 character of the district within which it is located. Standards and conditions
19 emphasize considerations to identify, avoid, and/or mitigate off-site impacts of a
20 proposed project, in addition to those considerations related to internal layout of the
21 site, its physical design and appearance as viewed from off-site, and the functional
22 integration of the site with surrounding properties and uses.

23
24 **C) Application/Site Plan Requirements:** A complete application for Conditional Use
25 Review shall include:

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

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

9
10 **D) Review Procedure:** The DRB shall issue a written decision following a duly noticed
11 public hearing according to Section 2.4.

12
13 **E) Review Standards:**

- 14
15 1) The DRB shall find that the proposed development will not result in an undue
16 adverse effect on any of the following:
17
 - 18 **a) The capacity of existing or planned community facilities.** The DRB shall
19 consider the demand for community services and facilities resulting from the
20 proposed development, and determine whether that demand will exceed the
21 existing or planned capacity of existing facilities or services. In making such
22 a determination, the DRB will consider any capital program or budget in effect
23 at the time of application.
 - 24
25 **b) The character of the neighborhood area, or district affected.** The DRB
26 shall consider the location, scale, type, density, and intensity of the proposed
27 development in relation to the character of the area likely to be affected by the
28 proposed development, as defined by the purpose(s) of the zoning district(s)
29 within which the project is located (See Section 3.1) and specifically stated
30 polices and standards of the North Hero Town Plan. Multi-family dwellings
31 with 4 or fewer units shall not be denied solely due to an undue adverse
32 effect on the character of the area affected.
 - 33
34 **c) Traffic on roads and highways in the vicinity.** The DRB shall consider the
35 projected impact of traffic resulting from the proposed development on the
36 capacity, safety, efficiency and use of affected roads, bridges, and
37 intersections. A traffic impact study may be required.
 - 38
39 **d) Other Town bylaws in effect.** The DRB shall consider whether the
40 proposed development complies with all municipal bylaws and ordinances in
41 effect at the time of application, including conformance with applicable
42 Development Standards and Specific Use Standards in Article 7 and 8 of
43 these Regulations. No development shall be approved in violation of existing
44 municipal bylaws and ordinances.
 - 45
46 **e) The utilization of renewable energy resources.** The DRB shall consider
47 whether the proposed development will interfere with the sustainable use of

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

3 2) The DRB may impose appropriate conditions and safeguards with respect to:
4

5 **a) Maximum safety of vehicular and pedestrian circulation between the site**
6 **and the street network.** The DRB shall consider the safety of vehicular and
7 pedestrian circulation between the site and the street network. Particular
8 attention shall be given to visibility at intersections, to traffic flow and control,
9 to pedestrian safety and convenience, and to access in case of emergency.
10

11 **b) Adequacy of circulation, parking, and loading facilities.** The DRB shall
12 consider the adequacy of circulation, parking and loading facilities, including
13 compliance with Section 7.5. Particular consideration shall be given to the
14 effect of noise, glare or odors on adjoining properties and state and town
15 highways. Adequacy of provisions for erosion control, runoff, refuse removal,
16 service areas, and snow removal shall be considered.
17

18 **c) Adequacy of landscaping and screening according to Section 7.3.** The
19 DRB shall consider the adequacy of landscaping and screening on the site.
20 Exterior storage of material shall be designated to a specific area and
21 adequately screened from view from adjacent properties, roads and the Lake
22 and is prohibited in setback areas.
23

24 **d) Adequacy of waste management plan.** The DRB shall consider the
25 adequacy of the plan for managing and disposing of trash, fuel and oil,
26 cleaning materials, paint and other refuse.
27

28 **e) Conformance with applicable Development Standards and Specific Use**
29 **Standards in Article 7 and 8.**
30

31 **F) Conditions.** The DRB shall have the power to impose reasonable conditions and
32 safeguards to ensure compliance with the standards above, including but not limited
33 to, the following conditions:
34

- 35 1) The DRB may require project phasing or improvements necessary to
36 accommodate the proposed development to ensure that the demand for facilities
37 or services does not exceed existing or planned capacity.
- 38 2) The DRB may limit the scale or dimensions of the proposal.
- 39 3) The DRB may increase setback distances for non-residential uses which are
40 contiguous to residential uses, recreation uses, or natural areas.
- 41 4) The DRB may require landscaping and screening as appropriate to ensure the
42 development fits in with its surroundings.
- 43 5) The DRB may limit the hours of operation.
- 44 6) The DRB may limit outdoor storage of materials, goods, and equipment.
- 45 7) The DRB may require that outdoor storage of or work associated with goods,
46 parts, supplies, vehicles or machinery is inside a building or behind screening.
- 47 8) The DRB may attach conditions with regard to size and location of parking areas,

- 1 landscaping, and signs.
- 2 9) The DRB may require roadway improvements on-site or off-site, if deemed
- 3 necessary, to accommodate the increased traffic associated with the
- 4 development. Improvements may also include traffic calming, sidewalks,
- 5 crosswalks and other similar improvements.
- 6 10) The DRB may limit the location of buildings, structures and landscaping to
- 7 protect visual and physical lake access for neighbors.
- 8

9 **SECTION 6.2: SETBACK WAIVER**

10
 11 **A) Purpose and Applicability:** A Setback Waiver is an approved reduction to the
 12 minimum setback distance required for a particular structure according to Table 5.2.
 13 To preserve and continue existing development patterns, the DRB may waive the
 14 setback according to the following provisions:

Commented [EK42]: North Hero may want to revisit
 Commented [GB43R42]: NRPC happy to discuss this with the Town.

- 15
- 16 1) Where existing structures within 200.00 feet of the proposed structure do not
- 17 meet minimum road setback standards, the DRB may approve a reduction to the
- 18 state, town, private road, or lake setback for not more than one (1) primary or
- 19 accessory structure (on conforming and non-conforming lots). See also Article 9
- 20 regulating nonconformities.
- 21 2) For structures on non-conforming lots, the DRB may approve a reduction to yard
- 22 setbacks. See also Article 9 regulating nonconformities.
- 23 3) For handicap accessibility ramps, the DRB may approve a reduction to any
- 24 setback.
- 25 4) Lots with more than one dwelling unit, including accessory dwelling units, are not
- 26 eligible for a setback waiver.
- 27

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

33
 34 **C) Review Procedure:** The DRB shall issue a written decision following a duly noticed
 35 public hearing according to Section 2.4.

36
 37 **D) Review Standards:** The DRB may approve a setback waiver in accordance with
 38 the standards below.
 39 1) The DRB shall not approve a waiver that that would have an undue adverse
 40 effect on adjacent property, the character of the area or on public health and
 41 safety
 42 2) In the issuance of waivers the DRB:
 43 a) Shall consider and may require design features, screening, or some other
 44 remedy in order to mitigate anticipated impacts of any such waiver. The
 45 design feature shall provide adequate privacy to the surrounding use(s).

1 Examples include fences, densely planted landscaping such as a hedge, or
2 other natural and/or man-made landforms.

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

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

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

15 4) Any waiver approved by the DRB shall be considered the minimum setback for
16 that structure and it shall be considered conforming with respect to that setback
17 distance.
18

19 SECTION 6.3: VARIANCES (SECTION 329)

20
21 A) **Applicability.** Requests for variances from the provisions of these Regulations may
22 be submitted for structures (but not for uses) and shall be regulated as prescribed in
23 Section 4469 of the Act.
24

25 B) **Application Requirements.** A complete application for a variance shall include all
26 the information requested on the North Hero Application to the DRB, including the
27 application fee. The application shall also include a written description of how the
28 proposal meets the requirements of Section 6.3(D) below.
29

30 C) **Review Procedure:** The DRB shall issue a written decision following a duly noticed
31 public hearing according to Section 2.4.
32

33 D) **Review Standards.** The DRB may grant a variance and render a decision in favor
34 of the applicant only if all the five (5) facts listed below are found, and the findings
35 are specified in its written decision. In addition to the five (5) facts listed below,
36 variances for structures in the Flood Hazard Area Overlay District shall conform to
37 Article 10.
38

- 39 • That there are unique physical circumstances or conditions, including irregularity,
40 narrowness, or shallowness of lot size or shape, or exceptional topographical or
41 other physical conditions peculiar to the particular property, and that
42 unnecessary hardship is due to such conditions and not the circumstances or
43 conditions generally created by the provisions of the zoning regulation in the
44 neighborhood or district in which the property is located.
- 45 • That because of such physical circumstances or conditions, there is no
46 possibility that the property can be developed in strict conformity with the

1 provisions of these Regulations and that the authorization of a variance is
2 therefore necessary to enable the reasonable use of the property.

- 3 • That the unnecessary hardship has not been created by the applicant.
 - 4 • That the variance, if authorized, will not alter the essential character of the
5 neighborhood or district in which the property is located, substantially or
6 permanently impair the appropriate use or development of adjacent property,
7 reduce access to renewable energy resources, nor be detrimental to the public
8 welfare.
 - 9 • That the variance, if authorized, will represent the minimum variance that will
10 afford relief and will represent the least deviation possible from zoning regulation
11 and from the plan.
- 12
 - 13 1) In making a decision in favor of the applicant for a variance, the DRB may attach
14 conditions which are necessary to comply with the Act and/or the Town Plan.
 - 15
 - 16 2) On a request for a variance for a structure which is primarily a renewable energy
17 resource structure, the DRB may grant the variance only if it finds that all of the
18 facts listed in 24 V.S.A. §4469(b) are found in the affirmative.
 - 19

20 **SECTION 6.4: PLANNED UNIT DEVELOPMENT (PUD) (SECTION 352)**

21

22 **A) Purpose.** In accordance with Section 4417 of the Act, Planned Unit Developments
23 (PUDs) are permitted in order to achieve the following purposes:

- 24 1) Compact, pedestrian-oriented, mixed-use development;
- 25 2) Affordable housing;
- 26 3) Open space preservation and project compatibility with surrounding rural lands
- 27 4) Flexibility in lot layout and site design;
- 28 5) The efficient use of public facilities and infrastructure; and
- 29 6) Energy-efficient forms of development.
- 30

31 **B) Applicability.** The ZA shall evaluate all proposals for PUDs to determine whether
32 the project qualifies to be considered as a PUD as outlined below.

- 33 1) To qualify as a PUD, a project shall:
 - 34 a) Be located in the Rural Lands or Village Districts;
 - 35 b) Contain at least 4.0 contiguous acres; and
 - 36 c) Further at least two of the purposes of a PUD identified above.
- 37
- 38 2) PUDs may:
 - 39 a) Involve the creation of separate building lots or may include a development in
40 which multiple principal structures and uses are constructed on an existing
41 parcel or parcels.
 - 42 b) Involve one parcel or multiple adjacent parcels as a single PUD project.
- 43

44 **C) Review Procedure.** An application for PUD approval shall be reviewed according to
45 the Subdivision Review process in Section 6.5. For PUDs that include one or more
46 uses requiring Conditional Use Review, such approval(s) shall also be required for

1 the specific uses. These approvals shall be coordinated with PUD review to the
2 extent practical.

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

- 5 1) A brief summary of the project that explains how it meets the purposes of a PUD
6 as identified in 6.4(A) above.
- 7 2) Any request for flexibility in the application of the dimensional standards in Table
8 5.2 of these Regulations and any request for a density bonus according to
9 Section 6.4(G) below.

10
11 **E) General Standards.**

- 12
13 1) **Dimensional Standards.** To further the goals of PUDs, applicants may request
14 reduced minimum lot area and setback distances from those prescribed in Table
15 5.2 of these Regulations. The DRB shall set minimum lot area and setback
16 distances appropriate to the project in the written decision. The DRB shall take
17 into consideration the purpose of the Zoning District, the goals of PUDs,
18 compatibility of adjacent uses, traffic, and other conditional use and site plan
19 standards in setting minimum lot area and setback distances.
- 20
21 2) **Perimeter Setback.** The minimum setback requirements for the District in which
22 the project is located shall apply to the perimeter of the project under review.
- 23
24 3) **Allowed Uses.** The uses allowed in a PUD shall be governed by the standards
25 of Section 5.1.
- 26
27 4) **Mixed Uses; More than 1 Principal Use per Lot.** PUDs may involve multiple
28 types of uses. The DRB may approve more than one principal use per lot (within
29 separate structures or shared structures). Mixed uses shall be arranged to be
30 compatible, and to minimize visual and noise impact for the residents of the
31 development and adjacent properties. To achieve this, the DRB shall require
32 landscaping, screening, and/or setbacks as appropriate.
- 33
34 5) **Clustering.** Development shall be clustered to preserve rural character and the
35 working landscape and to further the efficient use of land.

36
37 **F) Open Space Standards.**

- 38
39 1) PUDs shall be designed to preserve open space for one or more of the following
40 reasons: parks, recreation, agriculture, forestry, or scenic views. The location,
41 size, shape, and intended use of lands set aside to be preserved for open space
42 shall be approved by the DRB in accordance with the following:
43 a) A minimum of 10% of total project acreage shall be open space in the Village
44 District and a minimum of 50% of the total project acreage shall be open
45 space in the Rural Lands District.
- 46 b) Notwithstanding (a) above, the location, shape, and size of the open space
47 shall be suitable for its context and intended use.

- 1 c) Open space shall be configured to be contiguous with existing and/or
- 2 potential open space and conform with and extend existing areas sharing
- 3 similar characteristics or natural features and resources on adjacent parcels.
- 4 d) Areas preserved for agricultural and forestry use should be of a size that
- 5 retains their eligibility for available tax abatement programs.
- 6 e) Sewage disposal areas, utility and road rights-of-way or easements, and
- 7 access and parking areas shall not be counted as open space, except where
- 8 the applicant can demonstrate, to the satisfaction of the DRB that they will in
- 9 no way disrupt or detract from the intended use for which the open space is to
- 10 be protected.

11
12 2) Open space shall be protected for its intended use by one of the following
13 means:

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

30
31 **G) Density Bonus.**

- 32 1) The DRB may grant a density bonus according to the criteria below. The density
- 33 bonus shall be applied to the density calculated according to Section 5.2.
- 34 a) In the Village District, the DRB may grant a five percent (5%) density bonus
- 35 for each of the criteria listed below which is met by the proposed project:
 - 36 i) The project incorporates re-use of existing historic structures.
 - 37 ii) The project incorporates commercial and residential uses.
 - 38 iii) The project incorporates walking trails or parks (for use by the public or by
 - 39 residents/occupants of the project only).
 - 40 iv) The project incorporates pedestrian or recreation infrastructure, such as
 - 41 playground equipment, benches or picnic tables, BB-Q areas, gazebos or
 - 42 pavilions, playing fields, tennis courts, or other sports amenities, which is
 - 43 made available to the public or to residents/occupants of the project only.
 - 44 v) The project incorporates vehicular connectivity by making all proposed
 - 45 streets connect to the streets of adjacent developments to form a network.
 - 46 vi) The project incorporates pedestrian connectivity by making proposed trails
 - 47

- 1 and sidewalks connect to existing systems.
- 2 vii) The project provides land and/or infrastructure for public use without fee.
- 3 viii) The project has one or more Leadership in Energy and Environmental
- 4 Design (LEED) certified components (certified by the US Green Building
- 5 Council).
- 6 ix) The project is designed to meet the needs of elderly or handicapped
- 7 individuals or families whose income is less than the median income of
- 8 Grand Isle County.
- 9 x) At least twenty (20) percent of housing units or a minimum of five units,
- 10 whichever is greater, are affordable housing units. Affordable units shall
- 11 be subject to covenants or restrictions that preserve their affordability for a
- 12 minimum of 15 years. Affordable housing is defined in the Act.
- 13
- 14 b) In the Rural Lands District, the DRB may grant a two percent (2%) density
- 15 bonus for each of the criteria listed below which is met by the proposed
- 16 project:
- 17 i) The project incorporates walking trails or parks (for use by the public or by
- 18 residents/occupants of the project only).
- 19 ii) The project incorporates vehicular connectivity by making all proposed
- 20 streets connect to the streets of adjacent developments to form a network
- 21 with no dead-end roads.
- 22 iii) The project incorporates re-use of existing historic structures.
- 23 iv) The project has one or more Leadership in Energy and Environmental
- 24 Design (LEED) certified components (certified by the US Green Building
- 25 Council).
- 26 v) At least twenty (20) percent of housing units or a minimum of five units,
- 27 whichever is greater, are affordable housing units. Affordable units shall
- 28 be subject to covenants or restrictions that preserve their affordability for a
- 29 minimum of 15 years. Affordable housing is defined in the Act.
- 30

31 **SECTION 6.5: SUBDIVISION (SECTION 340)**

32

33 **A) Purpose.** The purpose of these subdivision

34 regulations is:

- 35 1) to guide community settlement patterns
- 36 based on the vision of the Town Plan;
- 37 2) to ensure the efficient extension of
- 38 services, utilities, and facilities as land is
- 39 developed;
- 40 3) to ensure that any required public
- 41 improvements meeting specified
- 42 standards be made by the developer of the subdivision;
- 43 4) to create lots that meet minimum size requirements, are not irregularly shaped,
- 44 and have adequate access; and

Figure 6.5(a)

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

1 5) to ensure that lots are mapped and tied to surveying reference points so they can
2 be easily recorded by the Town.

3
4 **Figure 6.5(b)**

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

10 **C) Subdivision Classification.** For the
11 purposes of these regulations,
12 subdivisions shall be classified by the
13 ZA as minor subdivisions or major
14 subdivisions in accordance with the
15 following:

- 16 1) Minor Subdivisions shall include:
- 17 • Any subdivision containing not
 - 18 more than three (3) lots and
 - 19 that does not require any new
 - 20 public or private road, road
 - 21 extension, or extension of
 - 22 municipal facilities;
 - 23 • Boundary line adjustments;
 - 24 • Amendments to an approved
 - 25 minor subdivision; or
 - 26 • Amendments to an approved
 - 27 major subdivision plan that will
 - 28 not substantially change the
 - 29 nature of any previous
 - 30 subdivision or conditions of
 - 31 approval.
- 32
- 33 2) Major subdivisions shall include
- 34 subdivisions that do not meet the
- 35 minor subdivision criteria in
- 36 6.5(C)(1) above, in addition to:
- 37 • Planned unit developments;
 - 38 • Subdivisions involving more
 - 39 than one Zoning District; and
 - 40 • Subdivisions that create a new
 - 41 lot without frontage on a public
 - 42 road or waters (access by right-
 - 43 of-way must be approved
 - 44 according to Section 5.4).
 - 45

Plan and Survey Plat Specifications

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

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

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

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

Survey Plat. A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 6.5(l) and 27 V.S.A. Section 17.

- 1 **D) Review Process.** There are three (3) levels of subdivision review:
2 • Sketch Plan Review,
3 • Preliminary Plan Review, and
4 • Final Plan Review.
5
6 **1) Minor Subdivisions** may elect to undergo Sketch Plan Review. Minor
7 Subdivisions are exempt from Preliminary Plan Review and shall require Final
8 Plan Review only.
9
10 **2) Major Subdivisions** require Sketch Plan Review, Preliminary Plan Review and
11 Final Plan Review. However, the DRB may waive Preliminary Plan Review at
12 Sketch Plan Review.
13
14 **3) Site Visit.** The DRB may request a site visit before or during the Sketch Plan
15 Review public hearing, the Preliminary Plan Review public hearing, or the Final
16 Plan Review public hearing. The applicant will be asked to mark significant
17 aspects of the proposal for DRB observation. The public will be invited to attend,
18 but no testimony or evidence may be given at the site visit.
19
20 **4) Number of Reviews.**
21 a) Additional Sketch Plan Review meetings will be permitted at the mutual
22 discretion of the DRB and applicant. This is to ensure the most complete and
23 efficient review of projects, to save resources for both the applicant and the
24 Town, and to provide public and municipal input at the earliest stages of
25 project development.
26 b) At the discretion of the DRB, Preliminary Plan and Final Plan Public Hearings
27 may be continued to another date and time certain announced during the
28 public hearing by the DRB.
29
30 **E) Application Requirements.** For all subdivisions (including boundary adjustments),
31 one original set of application materials is required for submission under this
32 Section. The DRB may request additional copies. A set of application materials
33 includes:
34 a) A completed Application to the DRB,
35 b) The application fee according to the fee schedule adopted by the North Hero
36 Selectboard,
37 c) A set of site plans that include all the information required in Table 6.5,
38 d) Abutting property owner information, and
39 e) Any additional materials that may be required according to Table 6.5 or by the
40 DRB.
41
42 **1) Application Material Waivers.** The DRB may waive or vary application
43 submission requirements it judges are not requisite in the interest of the public
44 health, safety, and general welfare, or which are inappropriate both in the short
45 and long term. No such waiver shall be granted if it would have the effect of
46 nullifying the intent and purpose of the North Hero Town Plan or these

Commented [EK44]: North Hero notes discuss- DRB to comment

Commented [GB45R44]: NRPC happy to discuss.

1 Regulations.
2

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements			
✓: Required NA: Not Required	Sketch Plan Review	Preliminary Plan Review	Final Plan Review
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>			
Required Form (See Figure 6.5(b))	Sketch Plan	Site Plan	Survey Plat
Location Map showing the project location in the context of the whole town	✓	✓	✓
Title Block including the following information:	✓	✓	✓
Project Title	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc)	✓	✓	✓
Location Description	✓	✓	✓
Site Address	✓	✓	✓
Name of Landowner	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓
Scale	✓ Approximate	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	NA	✓	✓
North Arrow	✓	✓	✓
Date of preparation and record of any revisions	✓	✓	✓
Relevant Planning and Zoning Information , including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓ Approximate	✓	✓
Contour lines at intervals of 5 feet (unless waived or modified by DRB)	NA	✓	✓
Lot and tract identification boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	✓ Approximate	✓	✓
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor: Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when:	NA	NA	✓

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements			
✓: Required NA: Not Required	Sketch Plan Review	Preliminary Plan Review	Final Plan Review
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>			
-it is 10 acres or less in size, and/or -greater than 50% is subdivided into lots			
Adjacent property and owners: all adjacent lands should be labeled with the name of the property owner(s).	✓	✓	✓
Existing features (i.e. non-portable features of the landscape): Streams, ponds, and wetlands; structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; and any other existing features. <i>A letter from the Vermont Department of Environmental Conservation Wetlands Section on whether any wetlands exist on the property shall be submitted.</i>	✓ Approximate	✓	✓
The proposed project (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations): All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.	✓ Approximate	✓	✓
Mitigation measures: Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓ Approximate	✓	✓
Off-site Improvements that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓ Approximate	✓	✓
Building envelopes, reserve areas, and open space. "Building envelopes" delineate the general area development is proposed. "Reserve areas" are those set aside for future development or expansion. "Open space" is any area set aside to satisfy the open space requirement for PUD approval.	✓ Approximate	✓	✓
Public rights-of-way and easements	✓ Approximate	✓	✓
Specialized Plans			
Utility Plan: Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.	NA	✓	✓
Grading and Erosion Control Plan: Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).	NA	✓	✓

Table 6.5: Subdivision Sketch Plan/Site Plan Requirements

	Sketch Plan Review	Preliminary Plan Review	Final Plan Review
✓: Required NA: Not Required			
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>			
Stormwater Management Plan: Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins.	NA	✓	✓
Road and Bike/Pedestrian Plan: Current and proposed grades for the installation of roads, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks.	NA	✓	✓
Landscaping Plan: Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.	NA	✓	✓
Lighting and Signage Plan: Locations and illumination of exterior lights. Location and dimensions of all exterior signs.	NA	As Required	As Required
Garbage Collection Plan: Location for garbage collection and method for containing garbage put out for pick-up.	NA	As Required	As Required
Transportation Impact Study: A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.	NA	As Required	As Required
Master Plan: An indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	NA	As Required	As Required
Legal Documents: A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.	NA	As Required	✓

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- F) Sketch Plan Review.** All major subdivisions require Sketch Plan Review. Minor subdivisions may elect to undergo Sketch Plan Review. Sketch Plan Review is completed by the DRB according to this Section.
- 1) Public Hearing.** A public hearing shall be held by the DRB at the earliest available regular or special meeting after a complete application for sketch plan review is submitted to the ZA. The hearing shall be warned according to Section 2.4
- The subdivider, or duly authorized representative, shall attend the public hearing to discuss the requirements of these Regulations for lot layout, building location, streets, improvements, stormwater management, fire protection, resource protection, and other aspects; as well as the availability of existing services and conformance with the planning standards of these Regulations.

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

12 **G) Preliminary Plan Review.**

13
14 **1) Application Process.** Within 1-year of Sketch Plan Review, applications for
15 Preliminary Plan Review of a Major Subdivision shall be submitted to the
16 DRBZA. Complete application materials shall contain those items set forth in
17 Section 6.5(E) above. The Plan shall build upon the layout approved at Sketch
18 Plan Review plus any recommendations made by the DRB and agreed upon by
19 the applicant. When requested in writing, the DRB may grant extensions beyond
20 this 1-year period when the project is delayed due to circumstances beyond the
21 applicant's control. If no extension is granted, the subdivider shall be required to
22 complete the subdivision review process again beginning with Sketch Plan
23 Review and will be subject to any new regulations that have gone into effect.

Commented [GB46]: In practice submitted to "clerk" or staff of DRB, which in many cases is the ZA. Application is accepted as complete and referred to the DRB.

24
25 **2) Action on Preliminary Plan.** Public notice, public hearing, and decision
26 requirements in Section 2.4 apply. The DRB shall review the subdivision for
27 conformance with the density requirements in Article 5, the Development
28 Standards in Article 7 and any other applicable standards in these Regulations.

29
30 **3) Effect of Preliminary Plan Approval.** Approval of a Preliminary Plan does not
31 constitute approval of the subdivision and does not guarantee approval of the
32 Final Plan. Prior to approval of the Final Subdivision Plan, the DRB may require
33 additional changes as a result of further study. The approval of a Preliminary
34 Plan is effective for a period of 1 year.

35
36 **H) Final Plan Review.**

37
38 **1) Application Process.** Within 1-year of Sketch Plan Review (if applicable for
39 minor subdivisions) or Preliminary Plan Approval (for Major Subdivisions),
40 applications for Final Plan Review shall be submitted to the DRBZA. The Final
41 Plan application materials must conform to the layout approved at Preliminary
42 Plan Review, including any amendments required by the DRB. When requested
43 in writing, the DRB may grant extensions beyond this 1-year period when the
44 project is delayed due to circumstances beyond the applicant's control. If no
45 extension is granted, the subdivider shall be required to complete the subdivision
46 review process again beginning with Sketch Plan Review and will be subject to
47 any new regulations that have gone into effect.

1
2 **2) Action on Final Plan.** Public notice, public hearing, and decision requirements
3 in Section 2.4 apply. The DRB shall review the subdivision for conformance with
4 the density requirements in Article 5, the Development Standards in Article 7 and
5 any other applicable standards in these Regulations.
6

7 **3) Acceptance of Public Infrastructure.** Final approval by the DRB shall not be
8 deemed to constitute or be evidence of acceptance by the Town of any street,
9 road, easement, utilities, park, recreational area, or open space shown on the
10 Final Plan or Survey Plat. Such acceptance may only be accomplished by formal
11 resolution of the Selectboard.
12

13 **4) Other Permits and Regulations.** Approval of the Final Plan shall not exempt an
14 applicant from compliance with all other applicable local, state, or federal
15 regulations, standards, policies, and ordinances.
16

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

28 **Survey Plat Specifications:**

- 29 • Mylar
- 30 • Clear and legible data and information
- 31 • 18.0 inches by 24.0 inches in size
- 32 • Stamp and signature of licensed Land Surveyor
- 33 • Margin of 2.0 inches outside of the borderlines on the left side for binding
34 and a 1.0-inch margin outside the border along the remaining sides
- 35 • Inset locus map clearly indicating the location of the land depicted and a
36 legend of symbols used
- 37 • Plat scale ratios sufficient to allow all pertinent survey data to be shown,
38 and graphic scale graduated in units of measure used in the body of the
39 plat
40

41 The chairperson (or acting chairperson) of the DRB shall endorse the Survey Plat
42 with the date of Final Plan Approval. Following endorsement by the chairperson of
43 the DRB and within 180 days of the DRB's Final Approval, the subdivider shall
44 submit the Survey Plat to the Town Clerk for filing. The Town Clerk shall endorse the
45 Survey Plat before filing. The DRB's written decision and Final Subdivision Site
46 Plans, which includes all permit conditions set by the DRB, shall be filed in the land

1 records of the Town and their location must be clearly referenced on the Survey
2 Plat.

3
4 Final Plan Approval shall expire if the subdivider does not receive endorsement and
5 file the Survey Plat and related documents within the 180-day period. The ZA, upon
6 written request prior to the expiration date, shall extend the date for filing the Survey
7 Plat by an additional 90 days if final local or state permits or approvals are still
8 pending.

9
10 **J) Revisions.** Except as may be required in any condition of final approval, no
11 changes, modifications, or revisions shall be made on any final Subdivision Site Plan
12 and Survey Plat after Final Approval, unless said Final Plan and Survey Plat are first
13 resubmitted to the DRB in accordance with these Regulations and the DRB
14 approves the modifications. See Section 6.5(H).

15
16 **K) Phasing.** At any point in the Subdivision Review process, the DRB may require the
17 Plan to be divided into two or more phases to be developed at separate times. The
18 DRB may impose specific conditions for subsequent application submissions to
19 ensure the orderly development of the Plan and coordination with the planned and
20 orderly growth of the Town as reflected in the Town Plan and any capital budget and
21 program in effect.

22
23 **L) Master Plan Review.**

- 24 a) When part of a larger parcel is proposed for development, the DRB may
25 require a description of the potential build-out of the entire parcel and
26 adjacent parcels (Master Plan) as part of the requirements established after
27 Sketch Plan Review.
- 28 b) When required, the Master Plan build-out shall include an indication of
29 proposed roads, driveways or streets, the future probable lot lines and
30 building envelopes of the remaining portion of the parcel, and a description of
31 the probable uses. The build-out may be drawn in a sketch plan format. The
32 DRB may require that the build-out be submitted as part of an extended
33 sketch plan review, or as a part of the preliminary or final plan.
- 34 c) Requirements for Master Plan review are intended to ensure the orderly
35 development of the Town, and will be required when the DRB determines that
36 the development currently under application may have an impact on the
37 future development potential of the remaining parcel or adjacent parcels. It
38 will also be required when the DRB determines that the future build-out of the
39 applicant's holdings, combined with the current proposal may have a
40 significant impact on the Town of North Hero.
- 41 d) Approval of an applicant's current application does not constitute approval of
42 the Master Plan build-out.

1 **ARTICLE 7: DEVELOPMENT STANDARDS**
2

3 **SECTION 7.1: APPLICATION OF STANDARDS**
4

5 The ZA and DRB shall evaluate applications against the applicable standards below.
6 Not all standards will apply to every application. The DRB may require modification of
7 subdivision or site plan design, phasing, or permit conditions to avoid or mitigate any
8 adverse impacts and to ensure conformance with these standards.
9

10 **SECTION 7.2: FENCES (SECTION 426)**
11

- 12 A) All fences over six (6) feet require a Zoning Permit.
13
14 B) No wall, fence or shrubbery shall be erected, maintained or planted on any lot in a
15 position where it could obstruct or interfere with either traffic visibility or the vision of
16 a motorist, cyclist or pedestrian on a highway, road or right-of-way. This restriction
17 applies to, but is not limited to, areas on a curve or on a tangent to a curve and on a
18 corner lot to the triangular area formed by the lot lines along the highways, roads or
19 rights-of-way and a line connecting them at points thirty (30.00) feet from the
20 intersection.
21

22 **SECTION 7.3: LANDSCAPING AND SCREENING (SECTION 436)**
23

- 24 A) **Landscaping.** The DRB may require planting and other landscaping to enhance
25 the features and conditions unique to each site and/or to provide screening from
26 adjacent uses in accordance with the following standards.
27 1) Landscaping may be required in front and side yards, adjacent to parking areas,
28 where rear yards abut residential properties or public roads, or as otherwise
29 necessary to provide adequate landscaping, buffering and/or screening.
30 2) The DRB may impose requirements with regard to the size, variety, number and
31 location of trees, front yard green space, other buffer yards, and screening
32 outside of storage areas or other unsightly areas from public streets and/or
33 adjoining properties.
34 3) In determining the amount of landscaping the DRB shall consider existing trees,
35 shrubs, evergreens and other plant material to be preserved on the site.
36 Particular consideration shall be given to preservation of existing vegetation and
37 important features of the site, including trees and tree lines, views and vistas,
38 fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from
39 the road and adjoining properties; and the adequacy of landscaping materials to
40 meet seasonal conditions, soil conditions and erosion control, and light on the
41 site.
42 4) Native plantings are encouraged over the use of non-native plantings. Invasive
43 species are prohibited.

Figure 7.3

For listings of native plants reference:

Vermont Rain Garden Plant List

(<http://www.uvm.edu/~seagrants/communications/assets/VTRainGardenManualPlantList.pdf>), OR

Elmore Roots Vermont Native Plant List

(<http://www.elmoreroots.com/guides/vermont-native-plants-list/>).

For invasive plants reference:

The Vermont Invasive Exotic Plant Committee's list

(<http://www.vtinvasiveplants.org/invaders.php>).

- 1
2
3 5) Plantings shall be installed and maintained in accordance with professional
4 landscape practices. A three (3) year plan for all proposed landscaping, and/or
5 bonding or other surety also may be required to ensure installation and
6 maintenance.
7

- 8 **B) Screened Service and Loading Areas (Section 437).** Except in conjunction with
9 one-family and two-family dwelling units, all areas designated, used or intended to
10 be used as service and loading areas for any building or land use must be screened
11 from view from all adjacent residential properties. Screening must extend at least
12 five (5.00) feet above finish grade and may be a wall, a solid fence or a fence of
13 evergreens.
14

15 **SECTION 7.4: OUTDOOR LIGHTING**

- 16
17 **A) General Standards.** To allow for appropriate outdoor lighting, while minimizing its
18 undesirable effects, the following standards apply to all outdoor lighting installations
19 in the Town of North Hero, with the exception of temporary holiday light displays
20 which are exempt from these requirements:

- 21 1) All outdoor lighting shall be kept to the minimum required for safety, security, and
22 intended use, consistent with the character of the neighborhood in which it is
23 located.
24 2) Permanent outdoor lighting fixtures shall be designed to minimize glare, and shall
25 not direct light upward or onto adjacent properties, roads, or public waters, or
26 result in excessive lighting levels that are uncharacteristic of the surrounding
27 neighborhood or area.
28

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

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

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

10
 11 **C) Waiver.** The DRB may waive or modify the requirements of this Section if it finds
 12 that such a modification or waiver is needed for public safety, or to meet an
 13 overriding public purpose, such as the illumination of a public building or monument.
 14

15 **SECTION 7.5: PARKING AREAS/LOTS (OFF ROAD PARKING) (SECTION 438)**

16
 17 Off-road parking must comply with the following standards:

- 18
 19 A) Parking areas/lots shall be setback 25 feet from all property lines and the Lake. This
 20 standard shall not apply to parking areas for one (1) and two (2) family dwellings.
 21
 22 B) Parking areas/lots must be designed so that no parking or maneuvering will be
 23 necessary on any public road or highway. Entrances and exits are to be clearly
 24 marked and comply with all public road requirements.
 25
 26 C) Parking spaces must be adequately sized for their intended vehicles (approximately
 27 nine (9) feet by eighteen (18) feet for non-commercial cars and trucks and ten (10)
 28 feet by forty (40) feet for large trucks and other large vehicles).
 29
 30 D) Minimum requirements for the number of spaces to be provided are provided in
 31 Table 7.5. Accessible parking spaces in compliance with the Americans with
 32 Disabilities Act shall also be provided.
 33

One and Two Family Dwellings	2 spaces per unit
Accessory Dwellings	1 space for 9600 sq. ft. apartment or less, otherwise 2 spaces
Multi-Family Dwellings	2 spaces for each of the first 2 units, 1 space per additional unit
Home Occupation	1 space plus 1 additional space for each 300 sq. ft. of office space
Lodging Establishments	1 space for each guestroom
Personal and Professional Services, Retail Sales, Gas/Service Stations	1 space for each motor vehicle used in the business plus 1 additional space for each 200 sq. ft. of floor area.
Restaurants	1 space for each 150 sq. ft. of floor area.

Commented [GB47]: Recommend require no extra spaces or no more than 1 space no matter the size.

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

- 1
2 E) Parking lots proposed for new developments must provide adequate landscaping
3 and screening (in the form of plantings) from public roads and adjacent properties.
4 For parking lots in excess of 20 spaces, landscaped areas must be integrated into
5 the parking lot design in addition to providing screening around the edges.
6 Residential uses are exempt from this requirement.
7

8 **SECTION 7.6: PERFORMANCE STANDARDS FOR USES (SECTION 440).**

9
10 The following performance standards must be met by all uses in all districts. Uses shall
11 not under normal circumstances:

- 12
13 A) Emit any sustained noise, odors, dust, smoke or noxious gases that endanger the
14 health, safety or welfare of any person or that have a tendency to cause injury or
15 damage to property, business or vegetation.
16
17 B) Use any lighting or signs that create a glare and could interfere with the vision of the
18 operator of any motor vehicle or boat or that pose an annoyance to neighbors
19 whether on adjacent property or within sight of the source.
20
21 C) Present a potential for explosion, fire or any other calamity or disaster. Flammable
22 or combustible liquids or any hazardous waste shall be stored within containment
23 structures sufficient to contain fuel spillage, be marked with HazMat signs and
24 comply with all applicable Vermont and Federal regulations.
25
26 D) Discharge any harmful or hazardous wastes into any sewage disposal system or into
27 Lake Champlain or any pond, stream, or other body of water or watercourse.
28

29 **SECTION 7.7: ROAD, DRIVEWAYS AND ACCESS STANDARDS**

- 30
31 **A) Applicability.** The following standards shall apply to all roads and driveways.
32
33 **1) Driveways (private).** All accesses serving not more than three (3) lots shall be
34 considered driveways and shall comply with the driveway standards in Sub-
35 Section (B) below. The interest of the owner of each lot served by a common or
36 shared driveway shall be protected by an easement recorded in the deed of each
37 lot involved.
38
39 **2) Roads (public or private).** All accesses serving four (4) or more lots shall be
40 considered roads and shall comply with the Town of North Hero Road Standards
41 and Sub-Section (C) below. All roads shall be private unless otherwise accepted

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

- 4
5 3) **Access to lots without frontage** on a public or private road may be permitted
6 by the DRB according to Section 5.4.

7
8 **B) Driveway Standards.** Driveways shall be setback a minimum of 125 feet from all
9 property lines (the DRB may waive this standard for shared driveways involving
10 adjacent properties). Driveways serving two (2) or three (3) lots shall have a
11 minimum width of 20 feet.

12
13 **C) Road Standards.** The standards of this section shall apply to all proposed public
14 roads and to proposed private roads serving 4 or more lots. In addition, these
15 standards may be applied to private roads serving three or fewer lots when the DRB
16 determines that such standards are necessary to provide suitable access or to
17 accommodate potential future land development.

- 18
19 **1) Construction and Design Standards.** All public and private roads shall be
20 designed in accordance with the North Hero Town Road and Bridge Standards,
21 as most recently amended.

22
23 **2) Arrangement.** The arrangement of new roads shall connect with existing roads
24 on adjoining parcels and allow for future continuation through adjoining properties
25 which are not yet subdivided or developed, in order to make possible necessary fire
26 protection, movement of traffic and construction or extension, presently or when later
27 required, of needed utilities and public services. To allow for future continuation of
28 roads, the DRB may require right-of-ways that extend to adjacent property lines.
29 Where in the opinion of the DRB, topographic or other conditions make such
30 connection or continuance undesirable or impracticable, the above conditions may
31 be modified.

32
33 **3) Topography.** Roads shall be logically related to the topography so as to produce
34 usable lots, reasonable grades and safe intersections in appropriate relation to
35 the proposed use of the land to be served by such roads.

36
37 **4) Access Management Standards.**

- 38 1) The DRB may require measures such as speed change lanes, turning lanes,
39 right turn only egress or other design elements necessary to provide for safe
40 circulation on the site and adjoining roads. The DRB may require additional
41 improvements and configuration to improve and facilitate pedestrian access
42 and safety.
43 2) The DRB may limit access to the property to a side street or secondary road,
44 or previously approved access on the subject property or adjoining properties.
45 Where traffic access is required to only a portion of the land, sharing that
46 access with future uses for the remainder of the parcel may be required.

1 3) The DRB shall require a common access point to serve multiple properties
2 under single or different ownership in order to limit the number of curb cuts
3 onto major roads and state highways. This condition may be modified where
4 in the opinion of the DRB, topographic or other conditions make such shared
5 access undesirable or impracticable.

6 **5) Dead Ends.** No dead end road shall be permitted without a suitable cul-de-sac at
7 its terminus with a radius of not less than thirty-five (35) feet. Hammerhead, "T" or
8 "Y" design configurations suitable to topography and adequate for emergency
9 vehicles to turn around efficiently may be permitted in lieu of a cul-de-sac.

10
11 **6) Road Intersections.**

- 12 1) No road intersection shall be within 100 feet from another road intersection
13 unless the roads directly oppose each other.
14 2) All road intersections shall be as nearly at right angles as possible.
15 3) All accesses and intersections must have a safe line of sight so as to prevent
16 the construction of blind or hidden driveways and roads.
17 a) A vehicle operator preparing to exit should be able to see unobstructed a
18 minimum of 550 feet in either direction when entering a 50 mph zones.
19 The sight distance drops to 440 feet for a 40 mph zone and 330 feet for a
20 30 mph zone. Nothing should be erected, placed, planted, or allowed to
21 grow in a triangle of vision so as to impair the vision of the motorist.
22 b) No access shall be constructed closer than 550 feet from a sharp curve,
23 hill, or blind area (50 mph zone). This minimum corner distance drops to
24 440 feet at 40 mph, and 330 feet at 30 mph.

25
26 **7) Accessibility.** All dwellings must be accessible by emergency and service
27 vehicles, with the exception of the outer islands. In determining accessibility, the
28 standards of the most recently updated NFPA 1 Uniform Fire Code will be used
29 as guidance, and local emergency service providers may be consulted for input.
30

31 **8) Upgrading Existing Driveways and Roads.** Applicants shall be required to
32 make improvements to existing roads and driveways according to the following
33 standards:

- 34 a) A development that proposes to add a second (2nd) or third (3rd) lot to an
35 existing driveway shall be required to upgrade it to comply with the Driveway
36 Standards in Section 7.7(B).
37 b) A development that proposes to add the fourth (4th) lot to an existing driveway
38 shall be required to upgrade it to comply with the Road Construction and
39 Design Standards in Section 7.7(C)(1).
40 c) A development that proposes to add any lot to an existing public or private
41 road (complying or noncomplying), which is deemed inadequate or unsafe
42 based on testimony from the Road Foreman, Fire Department and
43 Selectboard, may be required to upgrade the road to the extent necessary to
44 serve additional traffic from the proposed development. For Class 4 roads, the
45 DRB may require a memorandum of understanding between the applicant and
46 the Town regarding year-round maintenance of the road.
47

1 **9) Curbs, Sidewalks, and Pedestrian Accesses.** Curbs and sidewalks may be
2 required when deemed necessary by the DRB. When required, they shall be
3 constructed to standards established by the Town. In order to facilitate
4 pedestrian access from the roads to schools, parks, playgrounds, or other nearby
5 roads, perpetual unobstructed easements at least twenty (20) feet in width may
6 be required.
7

8 **SECTION 7.8: SHORELINE PROTECTION**

10 **A) Purpose.** The Shorelands District is created to protect the natural shoreline
11 vegetation of Lake Champlain from the 95.5' elevation contour inland 500 feet. All
12 land development within two hundred fifty (250) feet of the Lake Champlain mean
13 water mark (95.5 ft lake level) in the Shorelands District is subject to compliance with
14 the Vermont Shoreland Protection Act Permit Program. The exception to this would
15 be land that is located on the non-lake side of a municipal or state road but within
16 250 feet mean water level. This land does not need to conform to the Shoreland
17 Protection Act. Land on the non-lake side of a private road, however, does have to
18 comply with the Shoreland Protection Act. The development standards in this Section
19 intend to preserve water quality, prevent erosion, and regulate the appearance of
20 shorelines.
21

23 **B) Applicability.** All land development in the Shorelands District shall be subject to
24 this Section in addition to other applicable standards in these regulations.
25

27 **C)**

29 **Setback.** All land development shall be setback from the top of the natural bank of
30 Lake Champlain a distance according to Table 5.2, except for those exceptions
31 noted in Section 5.5.
32

33 **D) PRESERVATION OF NATURAL SHORELINE.**

34 **1) FOR ALL LAKEFRONT PROPERTIES, EXISTING NATURAL SHORELINE**
35 **VEGETATION SHALL BE INCORPORATED INTO DEVELOPMENT PLANS. NO MORE**
36 **THAN 50% OF EXISTING TREES WITH A CALIPER OF 4 INCHES IN DIAMETER OR**
37 **MORE MAY BE CUT WITHIN 25 FEET OF THE TOP OF THE NATURAL BANK OF LAKE**

Commented [GB48]: Move shoreland protection language from district purpose statement to this section.

Commented [EK49]: Need to directly reference state regulations "within 250"

Commented [GB50R49]: Clarify district that goes back 500 ft, vs shoreland permit 250'.

Commented [GB51]: Is this the right place for this language?

Commented [EK52]: Question this- Andy will find language

Commented [GB53R52]: Emily doing research

Commented [EK54R52]: Typically- municipalities define this as 95.5'

Commented [EK55]: Can trim bottom 30% of a tree

1 CHAMPLAIN. REMOVAL OF DEAD TREES OR TREES OF IMMEDIATE THREAT TO
2 HUMAN SAFETY IS PERMITTED.
3 ~~2) THE DRB MAY REQUIRE RESTORATION OF NATURAL SHORELINE~~
4 ~~VEGETATION IF IT HAS BEEN SUBSTANTIALLY DAMAGED OR IS IN VIOLATION OF~~
5 ~~THESE STANDARDS.~~

Commented [GB56]: Can delete

7 SECTION 7.9: SIGNS (SECTION 430)

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

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

- 13 1) Signs erected by the Town or State on public roads;
- 14 2) Non-advertising signs placed for directional or safety purposes;
- 15 3) Temporary auction, lawn, or garage sale signs that do not to exceed two (2) in
16 number and that do not to exceed fifteen (15) square feet in total area (all such
17 temporary signs shall be promptly removed when they have fulfilled their
18 function);
- 19 4) One temporary real estate or construction sign not to exceed six (6) square feet
20 in area and six (6) feet in height, providing such sign is promptly removed when it
21 has fulfilled its function;
- 22 5) Farm signs;
- 23 6) A sign no larger than sixteen (16) square feet, which announces the name,
24 address, and profession of the occupant of the premises engaged in a home
25 occupation; and
- 26 7) A bulletin board or kiosk no larger than twenty-four (24) square feet may be
27 permitted on the premises of any church, school, or similar public structure.
- 28 8) Signs or flags indicating that a business is open and/or the hours of operation,
29 provided such signs or flags are
 - 30 a) Limited to one (1) per use (one (1) for hours of operation and one (1)
31 open/closed sign, or one (1) for both);
 - 32 b) Are located on the premises of the use for which the sign is advertising;
 - 33 c) Do not exceed ten (10) square feet for a flag and four (4) square feet for a
34 sign.

36 **C) Prohibited Signs.** The following shall be prohibited in all districts:

- 37 1) Signs that impair highway safety.
- 38 2) Signs that are animated, flashing, or intermittently illuminated, and signs painted
39 or placed on rock outcrops or similar natural features.
- 40 3) Roof signs and wall signs that extend above the roof line.
- 41 4) Signs that project over public rights-of-way or property lines.
- 42 5) Internally lit signs.

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

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E) Business Signs. Signs shall meet the following standards:

- 1) One free-standing sign is allowed adjacent to a building containing one or more businesses. The maximum size of this sign shall be forty (40) square feet and the maximum height shall be eight (8) feet.
- 2) One sign per business establishment is allowed to be attached to the building. The maximum size of this sign shall be twenty (20) square feet.
- 3) The maximum square footage for all signs associated with a building shall be the total of: forty (40) square feet, plus twenty (20) square feet for each business establishment. See examples in Figure 7.9.
- 4) The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises.
- 5) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic.
- 6) Illumination shall be properly focused upon the sign itself.
- 7) No strings or pennants or similar attention-gathering media are permitted.

Figure 7.9

Examples of Total Sign Area

- A building with three business establishments may have 1 free-standing sign plus 3 signs attached to the building; therefore the total area of all signs (see H below) may not exceed 100 square feet: 40+20+20+20.
- A building with one business may have a total of 60 square feet of signs: 40+20.

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

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

H) Computation of Sign Area. When computing the total permissible sign area for any use:

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

1 **SECTION 7.10: STORAGE OF SEASONAL VEHICLES AND EQUIPMENT (SECTION**
2 **490)**

3
4 Seasonal vehicles and equipment should be stored inconspicuously from the roadway
5 so as not to impede to prevent visibility. S and setback requirements must be met.
6

7 **SECTION 7.11: STORMWATER MANAGEMENT AND EROSION CONTROL**
8

9 A) Developments shall incorporate temporary and permanent stormwater management
10 and erosion control practices as appropriate for the type and density of proposed
11 development and lot coverage to ensure that the project and subsequent
12 development does not result in soil erosion, the degradation of Lake Champlain and
13 other surface waters and/or hazards to properties within the vicinity. Accordingly:

- 14 1) All stormwater management systems shall be designed to:
15 a) use natural drainage systems to the extent feasible, and minimize the need
16 for system maintenance;
17 b) maximize on-site infiltration and treatment of storm water, and minimize
18 surface runoff;
19 c) accommodate anticipated flows, including existing surface water runoff and
20 total runoff generated by the proposed development at build-out, including
21 anticipated flows from storm events;
22 d) provide storage areas and treatment to manage flows and protect water
23 quality; and
24 e) avoid damage to adjoining properties and downstream drainage facilities.
25 2) The DRB may require the submission of stormwater management and/or erosion
26 control plans, prepared by a licensed professional, for all phases of development.
27 Such plans shall incorporate accepted management practices as recommended
28 by the state in the Vermont Stormwater Management Manual, and the Vermont
29 Handbook for Soil Erosion and Sediment Control on Construction Sites, as most
30 recently amended, and identify the person(s) or organization responsible for
31 system maintenance.
32 3) The applicant shall demonstrate that existing downstream drainage facilities will
33 be able to accommodate any additional runoff from the development. If
34 increased runoff exceeds the capacity of downstream drainage, storage or
35 treatment facilities, the DRB may require that the applicant phase the
36 development and/or delay construction until such capacity exists, or install off-
37 site improvements as needed to increase downstream capacity.
38 4) The DRB also may require project phasing to minimize the extent of soil
39 disturbance and erosion during each phase of development.
40

Commented [EK57]: Review
Commented [GB58R57]: Happy to discuss

41 **SECTION 7.12: WASTEWATER SYSTEM (SEPTIC) AND POTABLE WATER**
42 **SUPPLY (SECTION 480)**
43

44 All structures and uses that generate wastewater or require access to potable water
45 may be required to obtain a Wastewater and Potable Water Supply Permit from the
46 Vermont Department of Environmental Conservation (DEC) in accordance with 10

1 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated
2 September 29, 2007 or as revised from time to time by the DEC). Applicants proposing
3 land development that generates wastewater or requires access to potable water must
4 contact the Agency of Natural Resources District Permit Specialist to determine if such
5 a permit is required.
6

7 A) If, according to the DEC, a Wastewater System and Potable Water Supply Permit is
8 not required, the property owner/applicant shall provide written proof from the DEC
9 of such to the ZA which shall be required prior to issuance of a Zoning Permit. The
10 landowner cannot start building/construction until such permit is provided.
11

12 B) Where a Wastewater and Potable Water Supply Permit is required, the Zoning
13 Permit shall be conditioned the issuance of a final wastewater and potable water
14 supply permit under 10 V.S.A. chapter 64.
15

16 BC) It shall be unlawful to use or occupy any new principal structure or accessory
17 dwelling requiring a Wastewater and Potable Water Supply Permit until a Certificate
18 of Occupancy has been issued by the ZA (See Section 4.2).
19

20 SECTION 7.13: HANDICAPPED ACCESS

21
22 A) For handicapped access structures to a single-family dwelling which are conforming,
23 and/or in cases in which an access does not meet setbacks and in which the ramp
24 will not be roofed, the ZA may grant a permit with no charge. For all other
25 handicapped access to a single-family dwelling Conditional Use Approval is
26 required. No fee will be required for the Conditional Use Approval or the Zoning
27 Permit. (325L)
28

29 B) Handicapped access not included in Section (A) above and which does not meet
30 setbacks or which is part of an existing conditional use permit requires Conditional
31 Use Approval.

Commented [EK59]: Ask RPC to help with word

Commented [EK60]: Is this language acceptable to the NRPC, or is there a better way to phrase it?

Commented [GB61]: 24 VSA (13)(A) Wastewater and potable water supply systems. A municipality may adopt bylaws that:
(i) prohibit the initiation of construction under a zoning permit unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. chapter 64, or
(ii) establish an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon issuance of a wastewater and potable water supply permit under 10 V.S.A. chapter 64

1 **ARTICLE 8 SPECIFIC USE/STRUCTURE STANDARDS**

2
3 **SECTION 8.1: APPLICATION OF STANDARDS**

4
5 The ZA and DRB shall evaluate specific uses according to the corresponding standards
6 below. The DRB may require modification of subdivision or site plan design, phasing, or
7 permit conditions to avoid or mitigate any adverse impacts and to ensure conformance
8 with these standards.
9

10 **SECTION 8.2: ACCESSORY DWELLING UNITS (SECTION 401)**

11
12 A) One accessory dwelling may be permitted by the ZA on a property as per 24 VSA §
13 4412 (E) that is located within or appurtenant ~~on the same lot as~~ an owner-
14 occupied single-family dwelling.
15

16 B) An accessory dwelling unit means an efficiency or one-bedroom apartment a distinct
17 unit that is clearly subordinate to a single-family dwelling, and has facilities and
18 provisions for independent living, including sleeping, food preparation, and
19 sanitation, provided the ZA specifies upon approval there is compliance with all of
20 the following:
21

- 22 1) The accessory dwelling shall be located within or appurtenant to ~~(or on the same~~
23 lot as) a single family dwelling.
- 24 2) Floor space shall not exceed 30% of the habitable floor area of the single family
25 residence or 9400 square feet, whichever is greater.
- 26 3) The owner must occupy either the primary residence or the accessory dwelling.
- 27 4) The property has sufficient wastewater capacity according to Section 7.12.
- 28 5) The property meets all of the following applicable Bylaws:
29 a) Setbacks, see Bylaw Section 5.5;
30 b) Maximum Lot Coverage see Bylaw Section 5.7; and
31 c) Parking, see Bylaw Section 7.5.

32
33 **Commented [GB62]:** Let's discuss
34 **Commented [GB63]:** Discuss ADUs and nonconformities

35 ~~C) THE FOLLOWING RESTRICTIONS APPLY:~~

36 ~~1) AN ACCESSORY DWELLING IS NOT PERMITTED IN AN ACCESSORY
37 STRUCTURE WHICH HAS BEEN GRANTED VARIANCES, SETBACK EXEPTIONS OR
38 WAIVERS.~~

39 ~~2) IN ACCORDANCE WITH SECTION 9.2(C)(2), ON LOTS THAT CONTAIN
40 NONCONFORMING PRIMARY RESIDENTIAL USES (MORE THAN ONE) OR PRE-
41 EXISTING (UNPERMITTED) ACCESSORY DWELLINGS, SUCH AS COTTAGES,
APPLICATION CAN BE MADE TO THE DRB UNDER CONDITIONAL USE REVIEW TO
CONVERT ONE OF THE NONCONFORMING DWELLINGS TO AN ACCESSORY~~

1 DWELLING. APPROVAL AS AN ACCESSORY DWELLING MAY CAUSE SUCH
2 STRUCTURES TO BE CONFORMING.
3 3) ~~AN ACCESSORY STRUCTURE ON A NONCONFORMING LOT CANNOT BE~~
4 ~~CONVERTED TO AN ACCESSORY DWELLING NOR CAN AN ACCESSORY DWELLING BE~~
5 ~~PERMITTED AS A NEW ACCESSORY STRUCTURE ON NONCONFORMING LOTS.~~

6
7 **SECTION 8.3: AGRICULTURAL HOUSING**

8
9 ~~A) AGRICULTURAL HOUSING WHICH IS INTENDED SOLELY TO HOUSE FARM~~
10 ~~WORKERS AND THEIR FAMILIES OR SEASONAL OR MIGRANT AGRICULTURAL~~
11 ~~WORKERS, AND IS NECESSARY TO THE PRINCIPAL AGRICULTURAL USE OF A~~
12 ~~PROPERTY, MAY BE APPROVED SUBJECT TO THE FOLLOWING PROVISIONS:~~

13
14 ~~1) UP TO TWO ADDITIONAL SINGLE FAMILY DWELLINGS (NOT INCLUDING THE~~
15 ~~FARM RESIDENCE) MAY BE APPROVED AS A CONDITIONAL USE IN ALL DISTRICTS,~~
16 ~~SUBJECT TO THE FOLLOWING REQUIREMENTS:~~

17 ~~A) OCCUPANCY IS RESTRICTED TO FARM WORKERS AND THEIR FAMILIES.~~

18 ~~B) THE DWELLINGS SHALL CONFORM TO THE VERMONT WASTEWATER AND~~
19 ~~POTABLE WATER SUPPLY RULES AND PERMITTING REQUIREMENTS.~~

20 ~~C) OFF-STREET PARKING CAPACITY MUST EXIST TO ACCOMMODATE~~
21 ~~RESIDENTS.~~

22
23 ~~2) THE DRB DECISION AND ZONING PERMIT SHALL CLEARLY STATE THAT THIS~~
24 ~~DWELLING IS NECESSARY TO THE PRINCIPAL AGRICULTURAL USE OF THE~~
25 ~~PROPERTY AND SHALL BE RETAINED IN COMMON OWNERSHIP FOR THIS PURPOSE.~~
26 ~~AN AGRICULTURAL DWELLING MAY ONLY BE OCCUPIED AND/OR CONVERTED FOR~~
27 ~~SALE OR USE AS A SINGLE FAMILY DWELLING SEPARATE FROM THE AGRICULTURAL~~
28 ~~USE IF IT IS LEGALLY SUBDIVIDED FROM THE PARENT PARCEL AND MEETS ALL~~
29 ~~CURRENT LOCAL AND STATE REGULATIONS.~~

30
31 **SECTION 8.4: CAMPGROUNDS, MOBILE HOME PARKS AND TRAVEL TRAILER**
32 **CAMPS/PARKS (SECTION 446)**

33
34 **A) Applicability.** Campgrounds, mobile home parks and travel trailer camps/parks
35 may be permitted subject to the requirements of this section and State Law.

36
37 **B) Permits and Approvals.**

- 38 1) Campgrounds, mobile home parks and travel trailer parks/camps shall be
39 reviewed as a Planned Unit Development by the DRB and shall be subject to the
40 standards in this section in addition to the Planned Unit Development standards
41 in Article 6 and all other applicable provisions of this Regulation. Modifying an

Commented [EK64]: Review with DRB as new state regulations allow 1 accessory

Commented [EK65R64]: Review vis-à-vis new state regs., existing structure can be converted to accessory (may not be able to do this)

Commented [EK66R64]: NRPC: ADUs can only be reviewed under the same standards as SFH. So if SFH is allowed to be developed on pre-existing non-conforming lot, so is ADU.

Commented [GB67]: Will ask VLCT about restricting ADUs on nonconforming lots and structures.

Commented [EK68]: Review with DRB

Commented [EK69]: Why getting rid of this?

1 existing park by increasing the number of sites, mobile homes or travel trailers
2 permitted in the park also requires PUD review by the DRB. Alterations involving
3 the erection, construction, or placement of accessory structures and the
4 replacement of an existing mobile home in an existing mobile home park shall
5 not require DRB review; however, a zoning permit is required.
6

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

- 10 1) All parks/camps shall have a contiguous use area of not less than five (5) acres
11 and not more than thirty (30) acres.
- 12 2) The maximum density of any mobile home park shall not exceed an overall
13 average of one (1) mobile home per acre. There is no maximum density for
14 campgrounds and travel trailer parks/camps unless set by the DRB.
- 15 3) All parks/camps shall maintain a strip of land at least fifty (50) feet wide as a
16 landscaped area abutting all property lines. No campsite, mobile home unit,
17 travel trailer, office, utility or service building may be placed within this buffer
18 area. The DRB may reduce or eliminate this landscaped area requirement if such
19 a modification or waiver will make it possible to preserve a scenic view from the
20 park/camp, provided that privacy for adjacent property owners can be
21 maintained.
- 22 4) For mobile home parks, the minimum lot size shall be 20,000 square feet unless
23 a lot is provided with either off-site water or sewer, in which case the minimum lot
24 size shall be 15,000 square feet. For campgrounds and travel trailer
25 parks/camps there is no minimum lot size unless set by the DRB.
- 26 5) Each lot in a mobile home park shall have at least fifty (50) feet of frontage on a
27 mobile home park road. There are no frontage requirements for campgrounds
28 and travel trailer parks/camps unless set by the DRB.
- 29 6) All internal park/camp roads shall be constructed to the Selectboard's road
30 standards.
- 31 7) A non-porous pad, at least four (4) inches thick shall be provided for each mobile
32 home lot.
- 33 8) A minimum yard setback of 15 feet and a minimum setback from the access road
34 of 20 feet are required on each mobile home park lot. There are no setback
35 requirements for campgrounds and travel trailer parks/camps.
- 36 9) Sewage disposal, water supply and garbage facilities shall comply with state
37 regulations.
- 38 10) The DRB shall have power to impose reasonable conditions as to the amount,
39 ownership, use, and maintenance of open space and recreation as it deems
40 necessary to assure the preservation of such lands for their intended purpose.
41

42 **SECTION 8.5: EARTH RESOURCE EXTRACTION (SECTION 448).**

43
44 **A) Applicability.** Earth resource extraction includes the commercial extraction of
45 minerals, including solids such as sand and gravel, liquids such as water, and gases
46 such as natural gas. It may also include preparation activities such as crushing and

1 washing customarily part of earth resource extraction activities. Earth Resource
2 Extraction requires Conditional Use Review in specified zoning districts according to
3 Table 5.1.

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

10
11 **B) Application Requirements.** In addition to Conditional Use application
12 requirements, earth resource extraction proposals shall be prepared by a Vermont
13 Licensed Engineer and include:

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

26
27 **C) Review Standards.** The DRB shall find that the plan does not cause any undue
28 adverse effect to health or property based on the Conditional Use Review standards
29 and the following additional standards.

- 30 1) The operation shall not have an adverse effect upon the use of adjacent property
31 or town roads due to noise, dust, or vibration.
 - 32 a) Within the required setback areas, the natural vegetation shall be retained,
33 and supplementary planting or other screening may be required in order to
34 buffer impacts from the operation.
 - 35 b) No power-activated sorting or crushing machinery or equipment shall be
36 located within three hundred feet of any street or other property line, and all
37 such machinery shall be equipped with satisfactory dust control devices.
- 38 2) The operation shall not create traffic hazards or excessive congestion or physical
39 damage to public highways and expected routes of truck traffic.
- 40 3) All surface drainage affected by excavation operations shall be controlled by the
41 owner to prevent erosion debris and other loose materials from filling any
42 drainage course, street, or private property.
- 43 4) Suitable fencing or other appropriate safety precautions may be required around
44 extraction sites, sedimentation ponds, and spoil or equipment storage areas.
- 45 5) Explosives may be used only per a plan approved by the DRB.
- 46 6) The operation shall prepare a site rehabilitation plan that when followed will

1 reclaim the site by removing all debris, leveling all cut slopes and soil banks and
2 grading to an even low angle, and establishing a firm cover of grass or other
3 vegetation sufficient to prevent erosion. The DRB may require the posting of a
4 bond to assure such rehabilitation.
5

6 **SECTION 8.6: FAMILY CHILD CARE HOME OR FACILITY**
7

- 8 A) A family child care home or facility means a home or facility where the owner or
9 operator is to be licensed or registered by the state for childcare.
10 1) A family child care home serving no more than six (6) full-time children and four
11 (4) part-time children shall be considered to constitute is considered a permitted
12 single-family residential use of property. As long as a valid zoning permit is in
13 place for a single household family dwelling, no additional permit or approval is
14 required. Any new structural alterations or other land development that would
15 otherwise require a permit still requires a permit. (i.e. Once a zoning permit for a
16 single-family residential use of property has been obtained, no permit is required
17 for such a family child care home or facility on that property, although any new
18 structures or structural alterations that would otherwise normally require a permit
19 still require a permit).
20 2) Family child care homes or facilities that serve more than six (6) full-time and four
21 (4) part-time children shall be considered a Personal or Professional Service
22 under these Regulations (see Table 5.1).
23

24 **SECTION 8.7: GASOLINE STATIONS AND MOTOR VEHICLE SERVICE**
25 **STATIONS (SECTION 450)**
26

27 Gas and Motor Vehicle Service Stations, when allowed according to Table 5.1, must
28 comply with all applicable Vermont and Federal regulations and meet the following
29 standards:
30

- 31 A) A gasoline station lot cannot be located within five hundred (500) feet of any lot
32 occupied by a school, public building, library, hospital, or religious institution.
33
34 B) Minimum lot size is one and one-half (1.5) acres and both lot depth and width shall
35 not be less than two hundred (200) feet (this standard shall apply over Table 5.2).
36
37 C) No fuel or oil storage nor any pumps, lubricating or other service equipment can be
38 located within fifty (50) feet of any property line.
39
40 D) All motor vehicle parts, dismantled vehicles, junk and trash must be stored within a
41 building and no repair work can be performed outside of a building.
42
43 E) There can be no more than two (2) access driveways and a suitable curbed
44 landscape area of at least six (6) feet in depth is to be provided and maintained
45 along all frontage not used by the access driveways.
46

Commented [EK70]: Does the language of the paragraph comply with state regulations?

Commented [GB71R70]: Municipalities cannot require a permit for change of use for a childcare home of 6 children or less. However, in case of change in structure, if a permit would be required for that change in a SHD, it can be required for a dwelling with home childcare. Emily will confirm

Commented [EK72R70]:

Commented [73]:

Commented [EK74]: Refer to state laws- does this comply?

Commented [EK75R74]: Existing language complied to state law. Proposed changes to provide clarity.

Commented [EK76]: Does this comply with state laws?

1 **SECTION 8.8: GROUP HOMES**

2
3 A residential care home or group home, to be operated under state licensing or
4 registration, serving not more than eight (8) persons who have a handicap or disability
5 as defined in 9 V.S.A. §4501, shall be considered by right, to constitute a permitted
6 single-family residential use of property (i.e. Once a zoning permit for a single-family
7 residential use of property has been obtained, no permit is required for such a group
8 home on that property, although any new structures or structural alterations that would
9 otherwise normally require a permit still require a permit). The only exception is that no
10 such home shall be so considered if it is located within one thousand (1,000) feet of
11 another existing or permitted such home. Licensed or registered group homes serving
12 more than eight persons who have a handicap or disability shall be considered
13 Congregate Care Facilities under these regulations.
14

15 **SECTION 8.9: HOME BASED BUSINESSES (SECTION 452)**

16
17 **A) Home Businesses.** A Home Business shall not require a Zoning Permit in any
18 district and shall be considered to be part of a residential use. A Home Business is
19 a use of an accessory building or minor portion of a dwelling for a business that
20 exhibits no external indications that a business exists. Home Businesses must meet
21 all of the following standards:
22

- 23 1) There are no employees other than members of the household.
- 24 2) The Home Business is not visible from outside the home or accessory building.
- 25 3) The Home Business does not generate additional traffic.
- 26 4) The Home Business has no impact on the character of the neighborhood.
- 27 5) The Home Business has no signs.
- 28 6) The Home Business has no external storage of materials or equipment.
- 29 7) The Home Business produces no objectionable noise, smoke, vibration, dust or
30 odors discernible on any adjoining property.
31

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

- 37 1) The Home Occupation is carried on wholly within the principal dwelling or
38 accessory structures.
- 39 2) The Home Occupation is carried on only by residents of the premises and not
40 more than one (1) additional full-time or part-time employee who is not a resident
41 of the home.
- 42 3) Exterior storage of material is not permitted unless adequately screened from
43 view from adjacent properties, roads and the Lake. Exterior storage is prohibited
44 in setback areas.
- 45 4) The Home Occupation does not generate a greater volume of traffic than would
46 normally be expected in the neighborhood.

- 5) There shall be no exterior displays, except that one unlit sign not exceeding four (4) square feet per side is allowed.
- 6) The Home Occupation does not cause any objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare.
- 7) Off-street parking spaces shall be provided according to Section 7.5. Parking shall be located in side or rear yards outside setback areas. However, existing residential parking areas may be utilized.
- 8) The Home Occupation does not utilize a square footage that is larger than twenty-five (25) percent of the total area of the principal dwelling.

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

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

SECTION 8.10: LAKE ACCESS STRUCTURES

~~Lake access structures come under the jurisdiction of the North Hero Development Regulations above the normal mean water level of the state (95.5 feet above sea level). Lake access structures may also be subject to the jurisdiction of the Army Corps of Engineers if located below or beyond an elevation of 98 feet above sea level or the Vermont Department of Environmental Conservation if located at or below 95.5 feet above sea level. Structures located all or partially below the 102-foot elevation contour are subject to Flood Hazard Area review in accordance with Article 10 in addition to this section.~~

~~Lake access structures include stairways or pedestrian ramps, boat launch ramps and docks constructed to gain access to the lakeshore. Lake access structures are exempt from the lake setback requirement (Table 5.2) but shall require a 25-foot setback from side property lines. Lake access structures shall be permitted according to the requirements of this Section.~~

~~1) One set of stairs or one pedestrian ramp, meeting required setbacks, may be permitted by the ZA according to the following standards:~~

Commented [GB77R76]: This is within the authority given to towns to regulate specific uses based on intensity of land use under conditional use review.

Commented [EK78]: Add sentence about state regulations/Shoreland protection act

Commented [EK79R78]: Does NRPC have recommended language?

Commented [EK80]: Deeded right of way

Commented [EK81]: We would like to delete para. 1-3 since this seems to fall under state jurisdiction. Does NRPC have suggested language?

- a) ~~Maximum stair or ramp width shall be four (4) feet.~~
- b) ~~No roofs or other permanent shelters are permitted.~~
- c) ~~Landings and turnarounds shall be kept as small as possible. Top landings shall not exceed 144 square feet, and mid-landings shall not exceed 50 square feet.~~
- d) ~~Any lighting shall be downward pointing and only on when stairway is in use.~~

~~2) Permanent boat launching ramps or slipways, meeting required setbacks, may be permitted by the ZA according to the following standards (seasonal boat launching ramps or slipways are exempt):~~

- a) ~~At least one permanent boat launching ramp or slipway may be permitted per property regardless of the amount of shoreline frontage. Additional permanent boat launching ramps or slipways may be permitted for properties with a more than 100 feet of shoreline frontage at a ratio of one (1) per 100 feet of shoreline frontage.~~
- b) ~~No more than 24 feet of bank per boat launch ramp or slipway may be disturbed.~~
- c) ~~Any lighting shall be downward pointing and only on when the boat launching ramp or slipway is in use.~~

~~3) Docks meeting required setbacks may be permitted by the ZA according to standards below. There are two types of docks considered by these regulations: permanent docks attached to the shore by means of permanent structure or other fixed apparatus and seasonal carry-in docks.~~

- a) ~~At least one permanent dock or seasonal carry-in dock may be permitted per property regardless of the amount of shoreline frontage. Additional permanent docks and seasonal carry-in docks may be permitted for properties with more than 100 feet of shoreline frontage at a ratio of one (1) permanent dock and one (1) seasonal carry-in dock per 100 feet of shoreline frontage.~~
- b) ~~Any lighting shall be downward pointing and only on when the dock is in use.~~

SECTION 8.11: LIGHT INDUSTRY AND COMMERCIAL ACTIVITY

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

SECTION 8.12: MARINAS, YACHT CLUBS AND RESIDENTIAL MARINE ASSOCIATIONS (SECTION 456)

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

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

- 1 2) A **yacht club** is a facility similar to a marina but operated on a non-profit basis for
2 the benefit of members or associates. The land may be held or controlled by
3 either an individual or a business entity. A yacht club may also include services
4 ancillary to the yacht club such as retail, repair, food, laundry facilities, etc.
5 3) A **residential marine association** is any commonly held shoreline property
6 which is a common element of or an appurtenance to a residential development
7 on the same or adjacent property that provides access to the shoreline for more
8 than two (2) residences.
9

10 **B) Review Standards for Marinas and Yacht Clubs.** Marinas and yacht clubs
11 must comply with the following standards, except that for a yacht club the DRB may
12 grant an exemption from any standard in this Section, at the request of the applicant, if
13 the DRB finds that such standard is not applicable and does not nullify the intent of
14 these Regulations or the Town Plan. Marinas and yacht clubs require Conditional Use
15 Approval, including preparation of a site plan, in accordance with Section 6.1.
16

17 1) **Shoreline Frontage.** Marinas and yacht clubs require a minimum of 200 feet of
18 consecutive shoreline frontage.
19

20 2) **Parking, Storage and Circulation Standards.** The site plan shall indicate a
21 plan for parking; storage of boats, dinghy's, and other marina equipment; and
22 onsite circulation in conformance with the following standards.
23

24 a) **Parking.** Marinas and yacht clubs shall comply with the off-street parking
25 requirements of Section 7.5 and this section. Parking areas shall be setback
26 25 feet from all property lines and the Lake. Parking spaces intended for
27 vehicles and boat trailers shall be adequately sized (approximately 10 feet by
28 40 feet). The DRB may approve shared parking spaces for those spaces
29 used primarily in the summer and those used for winter storage.
30

31 b) **Storage of Boats and Dinghies.** Boat and dinghy storage areas shall be
32 designated on the site plan. Boat and dinghy storage areas shall be setback
33 at least 25 feet from all property lines, ~~and the Lake,~~ except that dinghy
34 storage areas are exempt from the 25 foot setback from the Lake.
35

36 i) **Overnight/Long-term Storage.** The DRB may allow overnight and/or
37 long-term storage of boats if designated to a specific area on the site plan.
38 Winter storage areas shall include adequate space for parking and access
39 to stored boats.
40

41 ii) **Temporary Habitation on Stored Boats.** The DRB may allow temporary
42 habitation (not more than 30 consecutive days) on stored boats provided
43 that onsite restrooms are made available.
44

45 c) **Onsite Circulation.** The site plan shall indicate on-site vehicular and
46 pedestrian circulation with adequate access provided for all site amenities,
47 including the pump out station and fuel storage area. Adequate space shall
be provided for launching and servicing boats so as not to interfere with the
public right-of-way.

1 i) **Pedestrian Accessibility.** The site plan shall include designated
2 pedestrian paths to and from buildings and bathroom facilities, parking
3 areas, moorings and docking berths, and to adjacent properties.
4 Crosswalks may be required for marinas and yacht clubs bisected by a
5 road or where it is appropriate to provide safe access to adjacent uses.
6

7 d) **Fuel storage areas** shall be located in containment structures sufficient to
8 contain fuel spillage from tanks and shall meet EPA standards.
9

10 3) **Waste Management.** A plan for managing and disposing of trash, fuel and oil,
11 cleaning materials, paint, and sewage is required. This shall include an on-
12 shore, on premises holding tank for receiving boat sewage. A minimum of two
13 (2) toilets for use by customers, members or associates is required.
14

15 4) **Stormwater Management.** In addition to the standards in Section 7.11, if a
16 marina will provide boat washing it must be designated to a limited area on the
17 site plan and adequate stormwater management shall be provided to prevent
18 run-off into the lake.
19

20 5) **State and Federal Permits.** It shall be a condition of every permit that all State
21 and Federal permits are filed by the applicant with the Town of North Hero land
22 records and zoning office.
23

24 C) **Review Standards for Residential Marine Associations.** Residential marine
25 associations shall comply with the following standards.

- 26 1) Residential Marine Associations on undeveloped properties require a minimum of
27 100 feet of consecutive shoreline frontage. Residential Marine Associations on
28 developed lots require a minimum of 200 feet of consecutive shoreline frontage.
29 2) Residential marine associations are strictly limited to use by the residences in the
30 associated residential development and their guests according to and limited by
31 recorded covenants in the land records.
32 3) Residential marine associations shall not provide or allow ancillary services, such
33 as retail, repair, food and laundry facilities, which are allowed for marinas and
34 yacht clubs, unless otherwise permitted in conformance with these regulations.
35 4) The DRB ~~shall~~ require designated parking spaces to ensure efficient and
36 safe vehicular circulation if the level of use and site layout warrants it.
37

38 SECTION 8.13: PUBLIC FACILITIES (SECTION 404)

39

40 A) In accordance with the Act (Section 4413), the following public facilities may be
41 regulated, subject to Conditional Use Review only with respect to location, size,
42 height, building bulk, yards, courts, setbacks, density of buildings, off street parking
43 and loading, traffic, noise, lighting, and landscaping or screening requirements, and
44 only to the extent that the regulations do not interfere with the intended functional
45 use:
46

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

SECTION 8.14: SHORELINE STABILIZATION MEASURES

A) Applicability. Shoreline stabilization measures come under the jurisdiction of the Vermont Department of Environmental Conservation North Hero Development Regulations and this section above the normal mean water level of the state (95.5 feet above sea level). Lake access structures may also be subject to the jurisdiction of the Army Corps of Engineers if located below or beyond an elevation of 98 feet above sea level or the Vermont Department of Environmental Conservation if location at or below 95.5 feet above sea level. Structures located all or partially below the 102 foot elevation contour are subject to Flood Hazard Area review in accordance with Article 10 in addition to this section.

Shoreline stabilization measures involve the use of structures, vegetation, or land management practices to provide protection of a shoreline from future or existing erosion, including but not limited to vegetative buffers, rip-rap, and seawalls. There are nonstructural, structural, bioengineering and biotechnical stabilization methods (for more detail reference the Shoreline Stabilization Handbook for Lake Champlain and other Inland Lakes published by the Northwest Regional Planning Commission). All shoreline stabilization measures, except non-structural plantings, require a Zoning Permit issued by the Zoning Administrator in addition to compliance with this section.

Commented [GB82R81]: We are comfortable deleting but have not done a thorough review to see if any local standards are stricter. You may have standards that regulate at a higher level than state.

Commented [EK83]: Ask NRPC- make a sentence that refers to state statute

Commented [EK84R83]: We believe this all falls under state jurisdiction. Does NRPC have any suggested language to clarify?

Commented [GB85]: Add to definitions?

B) Shoreline stabilization measure review standards:

- 1) Non-structural and bio-technical stabilization methods are preferred over structural and bio-engineering methods.
- 2) The design of structural, bio-technical and bio-engineering stabilization methods shall be reviewed and approved by a qualified environmental professional. The ZA shall require a written statement from the qualified environmental professional stating that:
 - Unique characteristics of the site make the chosen stabilization method the best solution to prevent loss of a principal structure or significant erosion, and
 - Evidence that the chosen stabilization method will not have undue adverse impact in the form of significant erosion on adjacent shoreline properties.

1 The Shoreline Stabilization Handbook for Lake Champlain and Other Inland
2 Lakes includes a description of the various forms of lakeshore erosion and detail
3 on the appropriate use and potential impacts of stabilization methods; it shall be
4 referenced by the qualified environmental professional.

- 5
6 3) Where plantings are part of the stabilization measure, native plants, trees and
7 shrubs shall be used. Reference the Vermont Lakeshore Protection Series #3
8 Plants and Plantings on Lakeshores.
9

10 SECTION 8.15: SMALL OFF-GRID ENERGY GENERATION SYSTEMS

11
12 A) Purpose and Applicability. The purpose of this Section is to promote the safe,
13 effective and efficient use of small off-grid energy systems which are not regulated
14 by the Vermont Public Utility Commission Public Service Board.

15
16 B) Off-Grid Solar Arrays. Solar arrays shall comply with all required state and federal
17 codes and regulations, including the FAA Regulations and the National Electrical
18 Code. The manufacturer frequently supplies this information. Solar arrays may be
19 attached to a building or be free-standing with a support structure.

20 Solar arrays attached to a flat roof (5 degrees or less) of a building and free standing
21 solar arrays that are twenty five (25) feet or less in height are exempt from
22 regulation permitted uses in all zoning districts. All other types of off-grid solar arrays
23 require a permit. All solar arrays shall meet the following standards.

- 24 1) The minimum setback from property lines shall be equal to or greater than the
25 height of the array.
26 2) Solar arrays shall comply with all required state and federal codes and
27 regulations, including the FAA Regulations and the National Electrical Code.
28

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

32 1) Application Requirements. Applications for wind energy generation systems
33 shall include standard drawings of the wind turbine structure, including the tower,
34 base, and footings. An engineering analysis of the tower showing compliance
35 with the Uniform Building Code and certified by a qualified environmental
36 professional shall also be submitted.

37 2) Standards of Review. In addition to Conditional Use application requirements,
38 applications for wind energy generation systems shall include standard drawings
39 of the wind turbine structure, including the tower, base, and footings. An
40 engineering analysis of the tower showing compliance with the Uniform Building
41 Code and certified by a qualified environmental professional shall also be
42 submitted. This analysis is frequently supplied by the manufacturer. In addition
43 to the Conditional Use Standards in Article 6.1, the proposed DRB shall find that
44 proposed small off-grid wind energy systems shall comply with the following
45 standards, before approving an application:

Commented [GB86]: Decide whether to require local permit. Does not appear there are any local specific standards, so just reference under shoreline protection section. Make sure to delete from use table as appropriate (and or and to exemptions).

Commented [EK87]: NRPC: Need to address state regulations in Chapt 117 here, prohibited effects on certain types of off-grid solar & wind

Commented [EK88R87]: Cannot have effect of prohibiting solar. Cannot regulate solar on flat roof. Limits to regulating solar & wind based on size.

1 a1) Tower Height: For property sizes between ½ acre and one acre the tower
2 height shall be limited to 80.0 ft. For property sizes of one acre or more, there
3 is no limitation on tower height, except as imposed by FAA Regulations.
4

Commented [EK89R87]: Reformatted this section to meet state reqs.

5
6 b) ~~2~~ Setback: The tower base shall be setback a distance no less than the
7 tower height (including blade, rotor, or other vertical elements), which shall
8 create a fall zone entirely on the landowners property. Guy wire anchors and
9 other accessory elements may extend to the setback for the Zoning District in
10 which it is located.
11

Commented [EK90]: What is mex height?

Commented [EK91R90]: NRPC: For on-grid wind- the Regional Energy Plan sets a limit of 100 ft or less for "small-scale" wind. Can provide example images of what this looks like for PC.

12
13 c)
14 ~~e) 3~~ Noise: Small off-grid wind energy systems shall not exceed 60.0 dBA, as
15 measured at the closest neighboring inhabited dwelling. The level, however,
16 may be exceeded during short-term events such as utility outages and/or
17 severe windstorms.
18

Commented [EK92R90]: NRPC: Note: Chapt. 117 restricts municipality's ability to regulate when blade diameter is less than 20 feet

19 dd)
20 4) Compliance with State and Federal Codes and Regulations: Small off-grid
21 wind energy systems must comply with all required state and federal codes
22 and regulations, including the FAA Regulations and the National Electrical
23 Code. The manufacturer frequently supplies this information.
24

25 SECTION 8.16: RV AND TRAVEL TRAILERS (SECTION 464)

26
27 A) A travel trailer is designed for short-term occupancy. As used in these Regulations,
28 the term "travel trailer" also includes but is not limited to a camper trailer, motor
29 home, recreational vehicle, tent trailer and truck camper.
30

Commented [EK93]: NRPC: This is quite loud assuming a constant noise at a neighboring dwelling. EPA identifies 55 dB or greater as a nuisance, many states have limits as low as 50 dB at night

31 The owner of a travel trailer may store it on his/her own property as inconspicuously
32 as possible in accordance with the setback requirements for the specific zoning
33 district and the standards included in this Section.
34

35 B) A legally registered travel trailer designed and manufactured for
36 recreational camping uses, may be stored or parked on a developed residential lot
37 provided it meets the following requirements:

- 38 1) It shall not be permanently attached to the land.
- 39 2) It shall not be occupied for residential use while on the lot.
- 40 3) It shall not be attached to a septic system.
- 41 4) There shall not be more than two such units on a lot.
- 42 5) Such use shall not conflict with any provision of this Regulation.
43

44 BC) A legally registered travel trailer designed and manufactured for recreational
45 camping uses, may be placed on an undeveloped lot and used for limited seasonal
46 occupancy provided it meets the following requirements:

Commented [EK94]: In relation to the regulations, what is the difference between RVs and travel trailers? Does it have anything to do with the number of days it may be occupied?

- 1) It shall not be permanently attached to the land.
- 2) It may be occupied seasonally (for not more than a total of 180 days between May 1 and November 30 and no more than 60 days between November 1 and May 31) if it is hooked up to a water supply and a legally existing septic system that has been continuously used for that purpose, or a system approved under these regulations.
- 3) There shall not be more than one such unit on a lot.
- 4) Such use shall not conflict with any provision of this or other applicable regulations.

C.D) A legally registered travel trailer designed and manufactured for recreational camping purposes, may be placed on an undeveloped lot and used for recreational camping purposes, only, provided it meets the following requirements:

- 1) It shall not be permanently attached to the land.
- 2) It may be occupied for recreational camping purposes, only, for not more than a total of 45 days between May 1st and November 30th if it is not hooked up to a water supply or septic system.
- 3) It has a self-contained storage tank for waste water, which is either emptied off site in an approved disposal facility or the owner and occupant enters into a service contract with an approved hauler for collection and disposal off site in an approved facility, OR, an approved self-contained port-a-let is provided on site and the owner or occupant enters into a service contract with an approved hauler for collection and disposal off site in an approved facility
- 4) There is not more than one unit on a lot.
- 5) Such use does not conflict with any provision of this or any other applicable regulations.

Commented [EK95]: Review B & C with NRPC

Commented [EK96]: 180?

SECTION 8.17: WIRELESS TELECOMMUNICATION FACILITIES

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

- A) The following requires a Certificate of Public Good from the Department of Public Service under 30 V.S.A. Section 248, which preempts these Regulations:
- 1) Placement of wireless telecommunications facilities on electric transmission or generation facilities; and
 - 2) Single application to construct or install 3 or more telecommunications facilities, each at least 50.0 ft. above ground level, within 3 years as part of a network.
- B) No Zoning permit shall be required for the following:
- 1) Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve feet above

- 1 the specific roof area to which they are attached and are not located on historic
2 landmarks and structures.
- 3 2) Antenna structures less than twenty (20) feet in height with a primary function to
4 transmit or receive communication signals for commercial, industrial, municipal,
5 county, or state purposes.
- 6 3) Telecommunication facilities that are used exclusively for municipal radio
7 dispatch service or emergency radio dispatch service and which do not exceed
8 100.0 feet in height.
- 9
- 10 C) Amateur radio, citizens band radio, AM or FM radio, or broadcast television service
11 towers that exceed the requirements in (B) above but do not exceed 100 feet in
12 height are exempt from the provisions of this Section, but require a Zoning Permit as
13 an accessory structure.
- 14
- 15 D) Supplemental Application Requirements. In addition to the application requirements
16 required for Conditional Use Review a wireless telecommunication facility permit
17 application shall also include:
- 18 1) A location map showing the general area within a 2 mile radius of the facility.
- 19 2) A vicinity map showing the entire vicinity within a 2,500 foot radius of the facility,
20 including the location of all existing and proposed towers, topography, public and
21 private roads and driveways, buildings, structures, utilities, water bodies,
22 wetlands, 50 foot contour lines, landscape features, historic sites, and significant
23 wildlife habitats. It shall indicate the property lines of the proposed facility site
24 parcel and all easements or rights-of- way needed for access from a public way
25 to the facility.
- 26 3) Elevations and proposed site plans of the facility showing all facades and
27 indicating all exterior materials and colors of towers, buildings and equipment, as
28 well as all landscaping, utility wires, guy wires and screening. (All plans except
29 the vicinity map shall be drawn at a minimum scale of 1 inch = 50 feet.)
- 30 4) In the case of a site that is forested, the approximate average elevation of the
31 existing vegetation within 50 feet of any tower base.
- 32 5) A report from a qualified Vermont Licensed Engineer that:
- 33 a) Describes any tower's design and elevation.
- 34 b) Documents the elevation above grade for all proposed mounting positions for
35 antennas to be mounted on a tower and the minimum distances between
36 antennas.
- 37 c) Describes a tower's capacity, including the number, elevation, and types of
38 antennas that the tower is proposed to accommodate.
- 39 d) In the case of new facilities, demonstrates that existing towers and structures
40 within five miles of the site cannot reasonably be modified to provide
41 adequate coverage and adequate capacity to the community.
- 42 e) Describes potential changes or additions to existing structures or towers that
43 would enable them to provide adequate coverage.
- 44 f) Describes the output frequency, number of channels, and the power output
45 per channel for each antenna. As an alternative, a coverage map may be
46 provided.

1 g) Demonstrates the facility's compliance with the standards set forth in these
2 Regulations or other applicable standards.

3 h) Provides proof that at the proposed facility site the applicant will be in
4 compliance with all FCC Regulations, standards and requirements, and
5 includes a statement that the applicant commits to continue to maintain
6 compliance with all FCC Regulations, standards and requirements for radio
7 frequency radiation (RFR).

8 ~~i) Includes such other information as determined by the DRB to evaluate the~~
9 ~~application.~~

10 6) A letter of intent committing the facility owner and its successors to permit shared
11 use of any tower if the additional users agree to meet reasonable terms and
12 conditions for shared use, including compliance with all applicable FCC
13 Regulations, standards and requirements and the provisions of these bylaws and
14 all other applicable laws.

15 7) In the case of an application for additional antennas or other equipment to be
16 installed on an existing facility, a copy of the executed contract with the owner of
17 the existing structure.

18 8) To the extent required by the National Environmental Policy Act (NEPA) and as
19 administered by the FCC, a complete Environmental Assessment (EA) draft or
20 final report describing the probable impacts of the facility, or a written statement
21 by the applicant that an EA is not required for the facility.

22
23 **E) Construction Standards.** Telecommunications facilities shall conform to the
24 following construction standards:

- 25 1) The facility will not be built on speculation. If the applicant is not a
26 telecommunication service provider, the applicant shall provide a copy of a
27 contract or letter of intent showing that a telecommunication service provider is
28 legally obligated to locate a wireless telecommunication facility on lands owned
29 or leased by the applicant.
- 30 2) The facility will not project more than 20 feet above the average elevation of the
31 tree line measured within 100 feet of the highest vertical element of the wireless
32 telecommunication facility, unless the proposed elevation is reasonably
33 necessary to provide adequate telecommunication service capacity or coverage
34 to North Hero, or to accomplish co-location.
- 35 3) All telecommunication facilities shall comply with the setback provisions of the
36 zoning districts in which facilities are located. Notwithstanding the above, in
37 order to ensure public safety, the minimum distance of any wireless
38 telecommunication facility to any property line, dwelling, or occupied structure
39 shall be no less than the height of the tower, including antennas or other vertical
40 appurtenances. This setback shall be referred to as a fall zone. In the event that
41 an existing structure such as a barn silo, church steeple, or utility pole is
42 proposed as a mounting for a wireless telecommunication facility, a fall zone
43 setback may not be required.
- 44 4) The facility will not be illuminated by artificial means and will not display any
45 lights or signs except for such lights and signs as required by Federal Aviation
46 Administration, federal or state law, or these Regulations.

- 1 5) The DRB may require the applicant to provide a bond, or other form of financial
2 guarantee acceptable to the DRB, to cover the cost of removal of the facility,
3 should the facility be abandoned or cease to operate.
- 4 6) The applicant demonstrates that the facility will be in compliance with all FCC
5 standards and requirements regarding radio frequency radiation. The owner of a
6 wireless telecommunication facility shall, on a yearly basis, file a certificate to the
7 ZA showing that it is in compliance with all FCC standards and requirements
8 regarding radio frequency radiation, and that adequate insurance has been
9 obtained for the facility.
- 10 7) The facility will be properly identified with appropriate warnings indicating the
11 presence of radio frequency radiation.
- 12 8) The proposed equipment is installed on an existing wireless telecommunication
13 facility, unless it is demonstrated by the applicant that such co-location is not
14 structurally or spatially possible.
- 15 9) The facility provides reasonable opportunity for the installation and operation of
16 other telecommunications equipment (co-location).
- 17 10) Unless otherwise approved by the DRB, an abandoned or unused wireless
18 telecommunication facility shall be removed within 2 years of abandonment or
19 cessation of use. The applicant may apply to the DRB for an extension for
20 removal. If the facility is not removed, or an extension granted, within 2 years of
21 abandonment or cessation of use, the DRB may cause the facility to be removed.
22 The costs of removal shall be assessed against the facility owner.
- 23 11) Unused portions of a wireless telecommunication facility shall be removed within
24 1 year of the time that such portion is no longer used. Replacement of portions
25 of a facility previously removed shall require a new permit.

Commented [GB97]: NRPC will research state regs on these uses and discuss with PC.

Commented [EK98]: ? talk to NRPC

Commented [EK99R98]: Is the 2-year abandonment period a state requirement?

- 27 **F) Additional Conditional Use Criteria.** In addition to the Conditional Use Standards
28 in Section 6.1 and the construction standards in (E) above, the DRB shall approve
29 an application for a wireless telecommunications facility when it finds that the
30 application does not impose more than a de minimus impact on the following criteria:
- 31 1) The facility will not unreasonably interfere with the view from any public park,
32 natural scenic vista, historic building or district, or major view corridor.
 - 33 2) The facility will not have an undue adverse aesthetic impact. In determining this,
34 the DRB shall consider the following factors:
 - 35 a) The results of a balloon test, if conducted.
 - 36 b) The extent to which the proposed towers and equipment have been designed
37 to blend into the surrounding environment through the use of screening,
38 camouflage, architectural design, and/or imitation of natural features.
 - 39 c) The extent to which access roads have been designed to follow the contour of
40 the land and will be constructed within forest or forest fringe areas and not
41 open fields.
 - 42 ~~d) The duration and frequency with which the facility will be viewed from a public~~
43 ~~road or from public property.~~
 - 44 de) The degree to which the facility will be screened by existing vegetation,
45 topography, or existing structures.
 - 46 ef) Background features in the line of sight to the facility that obscure or make the
47 facility more conspicuous.

- f)g) The distance of the facility from the point of view and the proportion of the facility that is above the skyline.
 - i) The sensitivity or unique value of a particular view affected by the facility.
 - ii) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
- 3) The facility will not generate undue noise.

SECTION 8.18: PERSONAL LANDING AREAS

A) Personal Landing Areas are restricted to the Rural Lands and Shorelands Districts and are classified as "Conditional Use" land development. They are limited to the landowner's personal aircraft with occasional use by others. In addition to a Conditional Use Permit, the landowner must obtain a permit through the State of Vermont Transportation Board.

B) Submission of a Personal Landing Area Permit Application shall comply with the requirements of Section 2.5, Applications Before the DRB, and the following additional requirements:

- 1) A plan drawn to scale showing the dimensions, contours, and elevation of the lot. The size, height, and location on the site of existing and proposed structures for the landing area use and the following:
 - a. Location and orientation of the proposed runway.
 - b. Location and elevation of roads and rights of way.
 - c. Existing and proposed landscaping and other physical features.
 - d. Location of abutting landowners, structures and property lines.
- 2) Applicant shall address the following:
 - a. Takeoff and landing patterns
 - b. Aircraft noise levels relative to surrounding residences.
 - c. The restricted landing area may be used by a single engine aircraft, with a maximum seating capacity of four (pilot + three passengers).
 - d. Frequency of take-offs and landings, per week, per day and per month.
- 3) Restrictions on use of Personal Landing Area:
 - a-a. The restricted landing area may be used by a single engine aircraft, with a maximum seating capacity of four (pilot + three passengers).
 - b. No pilot training allowed.
 - c. No touch and goes allowed.
 - d. No remaining in pattern for repetitive landings.
 - e. No student pilot allowed.
 - f. Only VFR day operations.
 - g. No commercial operations such as sightseeing tour allowed.
- 4) Applicant shall make the Personal Landing Area available for emergency use Fire Department, EMS and other appropriate needs as designated by the DRB.
- 5) Provide a copy of the submitted and completed FAA Form 7480-1.

C) DRB shall consider the impact of the proposed Landing Area upon the surrounding Districts, with special attention to the surrounding residents' needs for peace, safety,

Commented [EK100R98]: No state statute only specifies a time-period for abandonment in case of nonconformity (must be 6 months or longer).

Commented [EK101]: Move to restrictions

Commented [GB102]: Confirm intent with PC

1 and privacy. This process needs to be completed before the Vermont Transportation
2 Board can grant a Certificate of Approval. However, the state Certificate of
3 Operation is required, and shall be filed with the town before commencement of use
4 of the Personal Landing Area. The landowner shall assume full responsibility for all
5 air and ground operations at the Personal Landing Area.

1 **ARTICLE 9: NONCONFORMITIES**

2
3 **SECTION 9.1: NONCONFORMING LOTS**

4
5 **Pre-existing Lots (Section 360).**

6
7 A) Any lot that is legally subdivided, is in individual and separate and nonaffiliated
8 ownership from surrounding properties, and is in existence on the date of enactment
9 of any bylaw, including an interim bylaw, may be developed for the purposes
10 permitted in the district in which it is located, even though the small lot no longer
11 conforms to minimum lot size requirements of the new bylaw or interim bylaw
12 provided such lot is not less than one-eighth acre in area and not less than forty feet
13 in width and depth. (See also Section 5.5(E)).

14
15 B) If a pre-existing small lot comes under common ownership with one or more
16 contiguous lots, it shall be deemed merged with said contiguous lot unless the small
17 lot is developed and contiguous to a legal undeveloped lot. Deemed merging
18 happens in the following situations:

- 19 1) Contiguous undeveloped small lots under the same ownership,
- 20 2) An undeveloped small lot contiguous to a developed small lot under the same
21 ownership,
- 22 3) A small undeveloped lot contiguous to a developed legal lot under the same
23 ownership, and
- 24 4) A small undeveloped lot contiguous to a legal undeveloped lot under the same
25 ownership.

26
27 C) However, a nonconforming lot shall not be deemed merged and may be separately
28 conveyed if all the following apply:

- 29 1) The lots are conveyed in their preexisting, nonconforming configuration.
- 30 2) On the effective date of any bylaw, each lot was developed with a water supply
31 and wastewater disposal system.
- 32 3) ~~At the time of transfer, each water supply and wastewater system is functioning~~
33 ~~in an acceptable manner.~~
- 34 4) ~~The deeds of conveyance create appropriate easements on both lots for~~
35 ~~replacement of one or more wastewater systems, potable water systems, or both, in~~
36 ~~case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.~~

37
38 **SECTION 9.2: NON-CONFORMING STRUCTURES AND USES (SECTION 375)**

39
40 A) **Applicability.** Nonconforming structures and uses are those that were in existence
41 before the effective date of these Regulations, which do not conform to the
42 requirements set forth in these Regulations. Structures located on pre-existing small
43 lots, which otherwise conform to these Regulations, including setbacks, are not
44 considered nonconforming. Structures and uses improperly authorized as a result of
45 error by the ZA are nonconforming.
46

Commented [GB103R102]:
Commented [EK104]: Are deeds of conveyance easements required by state?

1 **B) Continuation of Nonconforming Structures and Uses.**

2
3 **1) Nonconforming Structures.** No provision of these Regulations shall prevent
4 the normal maintenance and repair of a non-conforming structure provided that
5 such action does not increase the degree of non-conformance.
6

7 **2) Nonconforming Uses.** Any non-conforming use of a structure or of land may be
8 continued indefinitely except that a non-conforming use shall not be
9 reestablished after being abandoned for a period of one year, or after being
10 changed to, or replaced by, a conforming use. Intent to resume a non-
11 conforming use shall not confer the right to do so. A non-conforming use is
12 considered abandoned when one of the following occurs:

- 13 a) The characteristic activity, equipment and/or furnishings of the non-
14 conforming use have been removed from the premises and have not been
15 replaced by similar equipment within one (1) year.
- 16 b) It has been changed to another use under an approved permit.

17
18 **C) Improvements to Nonconforming Structures and Uses.**

19
20 **1) Nonconforming Structures.** The ZA may approve improvements to non-
21 conforming structures provided that the improvement does not increase the
22 degree of non-conformity through issuance of a Zoning Permit in accordance
23 with these Regulations. The DRB may approve improvements to nonconforming
24 structures that increase the degree of nonconformity as a conditional use only if
25 required to comply with environmental, safety, health or energy codes, laws or
26 regulations. See Figure 9.2 for an illustration of increasing the degree of
27 nonconformity. Nonconforming structures are eligible for a setback waiver in
28 certain instances (see Section 6.2 Setback Waivers).

29
30 **2) Nonconforming Uses.** Nonconforming uses shall not be expanded or changed
31 without Conditional Use Approval from the DRB in accordance with this Section.
32 In addition to the Conditional Use Standards in Article 6.1, the DRB shall apply
33 the following standards:

- 34 a) ~~Nonconforming uses shall not be expanded. Improvements that enlarge~~
35 ~~footprint area or add floor space~~ to structures occupied by nonconforming
36 uses are prohibited. The DRB may approve an improvement to a
37 nonconforming use that does not expand the use or enlarge footprint area ~~or~~
38 ~~add floor space~~, such as changing a sign.
- 39 b) A non-conforming use may change to another use only if in the opinion of the
40 DRB the new use is in greater compliance with these Regulations.

41
42 **D) Nonconformities in a Mobile Home Park.** If a mobile home park, as defined in 10
43 V.S.A. chapter 153, is a nonconformity, the entire mobile home park shall be treated
44 as a nonconformity, and individual lots within the mobile home park shall in no event
45 be considered nonconformities. Its status regarding conformance or
46 nonconformance shall apply to the parcel as a whole, and not to any individual

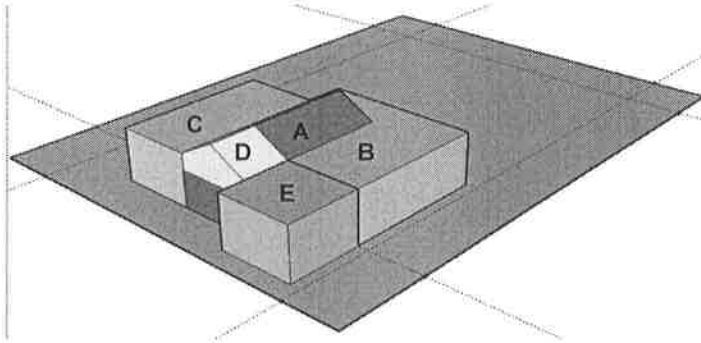
Commented [GB105R104]: No
Commented [EK106]: What is the definition of "added floor space"? Does it only apply to additional footprint, or could it also apply to the addition of a second floor?

1 mobile home lot within the park. An individual mobile home lot that is vacated shall
2 not be considered a discontinuance or abandonment of a nonconformity.
3

Figure 9.2 Increasing the Degree of Nonconformity of a Structure

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

4



5
6

Commented [GB107R106]: North Hero needs to define what expansion of nonconforming uses they are comfortable with – can be floor space (to include second floor) and/or footprint.
Commented [EK108]: Need to review for clarity

1 **ARTICLE 10: FLOOD HAZARD REGULATIONS**

2
3 **SECTION 10.1 LAND TO WHICH THESE STANDARDS APPLY**

4
5 These standards shall apply to development in the Flood Hazard Overlay District, which
6 is measured from the 102' elevation contour. This District is mapped as the Special
7 Flood Hazard Areas in and on the most current flood insurance studies and maps
8 published by the Department of Homeland Security (DHS), Federal Emergency
9 Management Agency (FEMA), and National Flood Insurance Program (NFIP), as
10 provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A.
11 Section 753, which are hereby adopted by reference and declared to be part of these
12 regulations.

13
14 The provisions of these flood hazard regulations shall not in any way impair or remove
15 the necessity of compliance with any other local, state, or federal laws or regulations.
16 Where this flood hazard regulation imposes a greater restriction the provisions here
17 shall take precedence.

18
19 **A) Base Flood Elevations & Floodway Limits shall be determined as follows:**

20
21 Base flood elevations provided by the National Flood Insurance Program and in the
22 Flood Insurance Study and accompanying maps shall be used to administer and
23 enforce these regulations. Flood Hazard Area District boundaries shall be
24 determined by the ZA. Appeals with respect to the District Boundaries (Section 3.1)
25 can be made to the DRB in accordance with Section 2.5. Floodway limits are not
26 required for the flood hazard zone A2 located on Lake Champlain as shown in the
27 NFIP Study and accompanying maps.

28
29 **B) Warning and Disclaimer.** The Flood Hazard Overlay District standards in this
30 section do not imply that land outside of the areas of special flood hazard or land
31 use permitted within Flood Hazard Overlay District will be free from flooding or flood
32 damages. These standards shall not create liability on the part of the Town of North
33 Hero or any town official or employee thereof for any flood damages that result from
34 reliance on the standards of this section or any administrative decision lawfully
35 made thereunder.

36
37 **SECTION 10.2 DEVELOPMENT PERMITS IN THE FLOOD HAZARD OVERLAY**
38 **DISTRICT**

39
40 A permit is required for all development within the Special Flood Hazard Area. For the
41 purposes of this Section, development is defined as any man-made change to improved
42 or unimproved real estate, including but not limited to buildings or other structures,
43 mining, dredging, filling, grading, paving, excavation or drilling operations or storage of
44 equipment or materials in accordance with Federal Regulations Title 44 CFR 59.1.

45
46 **A) Within the Special Flood Hazard Area:**

- 1 1) Permit required from ZA:
2 a) Lake Access Structures
3 b) Improvements to existing roads
4 c) Non-substantial improvements to existing structures
5 d) New or replacement storage tanks for existing structures
6 e) Recreational vehicles
7
8 2) Permit issued after Conditional Use Review by DRB:
9 a) Substantial improvements to existing structures
10 b) Marinas, Yacht Clubs and Residential Marine Associations
11 c) Accessory Structures
12 d) Shoreline Stabilization Measures
13 e) Bridges, culverts, or public projects which are functionally dependent on lake
14 access or crossing
15 f) Grading, excavation or the creation of a pond
16 g) Public utilities
17

18 **C) Prohibited Development throughout Special Flood Hazard Area:**
19

- 20 1) The following are prohibited throughout the Special Flood Hazard Area:
21 a) Storage of any explosive, flammable, hazardous, toxic, or floatable materials,
22 or junk yards,
23 b) New residential structures (including the placement of manufactured homes);
24 c) New commercial structures;
25 d) Critical facilities;
26 e) All development not exempted, permitted, conditionally permitted, or allowed
27 as a nonconforming use; and,
28 f) New fill except where necessary to elevate structures to meet the
29 Development Standards.
30

31 **SECTION 10.3 APPLICATION REQUIREMENTS**
32

- 33 A) In addition to the application requirements in Section 6.1, applications for
34 development within the Flood Hazard Area Overlay District shall also include the
35 following information:
36 1) the location, on the site development plan, and associated elevations of all
37 structures, roads, and water supply and wastewater facilities in relation to the
38 channel, floodway, and base flood elevations;
39 2) a completed FEMA "Elevation Certificate" prepared by a registered surveyor,
40 engineer, architect or other official authorized by the state to certify building
41 elevations, for any building constructed after the publication of the town's Flood
42 Insurance Rate Maps;
43 3) where flood-proofing is proposed, a completed FEMA "Flood-proofing Certificate"
44 prepared by a registered professional engineer or architect who is authorized by
45 the state to certify flood-proofing design and construction;

1 45) a description of the extent to which any watercourse will be altered or
2 relocated as a result of the proposed development.

3 B) Proposals for development within the Special Flood Hazard Area must be submitted
4 by the ZA or DRB to the Vermont Agency of Natural Resources for comment in
5 accordance with 24 V.S.A. §4424(D). A zoning application shall not be considered
6 complete until such comments have been received or 30 days has elapsed since the
7 application was submitted, whichever is sooner.

8
9 C) If the applicant is seeking a permit for the alteration or relocation of a watercourse,
10 copies of the application shall also be submitted to the adjacent communities, the
11 Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the
12 Army Corps of Engineers. Copies of such notice shall be provided to the State
13 National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of
14 Natural Resources, Department of Environmental Conservation. A permit may be
15 issued only following receipt of comments from the Vermont Agency of Natural
16 Resources, or the expiration of 30 days from the date the application was mailed to
17 the Vermont Agency of Natural Resources, whichever is sooner.

Commented [GB109R108]: Happy to discuss and help clarify

Commented [EK110]: Hugo will get Flood Map

18 19 SECTION 10.4 FLOOD HAZARD AREA DEVELOPMENT STANDARDS

20 21 A) All Development:

- 22 1) All development in the Special Flood Hazard areas shall be reasonably safe from
23 flooding and:
24 a) Designed (or modified) and adequately anchored to prevent flotation, collapse,
25 or lateral movement of the structure during the occurrence of the base flood;
26 b) Constructed with materials resistant to flood damage;
27 c) Constructed by methods and practices that minimize flood damage; and
28 d) Constructed with electrical, heating, ventilation, plumbing and air conditioning
29 equipment and other service facilities that are designed and/or located so as
30 to prevent water from entering or accumulating within the components during
31 conditions of flooding.
32 e) Adequately drained to reduce exposure to flood hazards.
33 f) Required to locate any fuel storage tanks (as needed to serve an existing
34 building in the Special Flood Hazard Zone) a minimum of one foot above the
35 base flood elevation and be securely anchored to prevent flotation; or storage
36 tanks may be placed underground, if securely anchored as certified by a
37 qualified professional.

38 39 B) Residential Development:

- 40 1) New construction and existing buildings to be substantially improved that are
41 located in the Flood Hazard Areas shall have the lowest floor, including
42 basement, elevated to or above the base flood elevation.
43 2) Manufactured homes to be placed and existing manufactured homes to be
44 substantially improved that are located in a new manufactured home park or
45 subdivision, outside of a manufactured home park or subdivision, in an
46 expansion to an existing manufactured home park or subdivision, or in a

1 manufactured home park or subdivision which has incurred substantial damage
2 from a flood shall be elevated on a permanent foundation such that the lowest
3 floor of the manufactured home is elevated or above the base flood elevation
4 and be securely anchored to an adequately anchored foundation system to
5 resist floatation, collapse, and lateral movement during the occurrence of the
6 base flood.
7

8 **C) Non-residential Development:**

- 9 1) New construction located in the Flood Hazard Areas shall have the lowest floor,
10 including basement, elevated to or above the base flood elevation.
11 2) Existing buildings to be substantially improved located in the Flood Hazard
12 Areas shall have the lowest floor, including basement, elevated to or above the
13 base flood elevation or together with attendant utility and sanitary facilities be
14 designed so that below the base flood elevation the structure is watertight with
15 walls substantially impermeable to the passage of water and with structural
16 components having the capability of resisting hydrostatic and hydrodynamic
17 loads and effects of buoyancy. (Note: while buildings need only be floodproofed
18 to the base flood elevation for floodplain management purposes, the building
19 must be floodproofed to an elevation at least one foot above the base flood
20 elevation to receive credit for base flood protection for flood insurance rating
21 purposes.)
22 3) A permit for a building proposed to be floodproofed shall not be issued until a
23 registered professional engineer or architect has reviewed the structural design,
24 specifications and plans, and has certified that the design and proposed
25 methods of construction are in accordance with accepted standards of practice
26 for meeting the provisions of this subsection.
27

28 **D) Subdivisions:**

- 29 1) New subdivision developments (including planned unit developments and
30 manufactured home parks) of more than 5 acres or 50 lots, whichever is less,
31 shall be designed to assure:
32
33 a) Such proposals minimize flood damage within the flood-prone area,
34 b) public utilities and facilities, such as sewer, gas, electrical, and water systems
35 are located and constructed to minimize or eliminate flood damage, and
36 c) adequate drainage is provided to reduce exposure to flood hazards.
37

38 **E) Enclosed Areas Below the Lowest Floor:**

- 39 1) Enclosed areas below the lowest floor which are subject to flooding shall be
40 used solely for parking of vehicles, building access, or storage.
41 2) New construction and existing buildings to be substantially improved with fully
42 enclosed areas below the lowest floor that are subject to flooding shall be
43 designed to automatically equalize hydrostatic flood forces on exterior walls by
44 allowing for the entry and exit of floodwaters.
45 3) Designs for meeting this requirement must either be certified by a registered
46 professional engineer or architect or meet or exceed the following minimum
47 criteria: A minimum of two openings having a total net area of not less than one

1 square inch for every square foot of enclosed area subject to flooding shall be
2 provided. The bottom of all openings shall be no higher than one foot above
3 grade. Openings may be equipped with screens, louvers, valves, or other
4 coverings or devices provided that they permit the automatic entry and exit of
5 floodwaters.
6

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

- 9 1) be on the site for fewer than 180 consecutive days,
- 10 2) be fully licensed and ready for highway use, or
- 11 3) be permitted in accordance with the elevation and anchoring requirements for
12 "manufactured homes" in section 10.4 B(2).
13

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

- 18 1) The structure must only be used for parking, storage, or lake access;
- 19 2) The structure must have the required openings to allow floodwaters in and out,
- 20 3) The structure must be constructed using flood resistant materials below the
21 Base Flood Elevation,
- 22 4) The structure must be adequately anchored to resist flotation, collapse, and
23 lateral movement, and
- 24 5) All building utility equipment including electrical and heating must be elevated or
25 floodproofed.
26

27 **H) Water Supply Systems:** New and replacement water supply systems shall be
28 designed to minimize or eliminate infiltration of flood waters into the systems.
29

30 **I) Sanitary Sewage Systems:** New and replacement sanitary sewage systems shall
31 be designed to minimize or eliminate infiltration of flood waters into the systems and
32 discharges from the systems into flood waters.
33

34 **J) On-Site Waste Disposal Systems:** On-site wastewater disposal systems shall be
35 located to avoid impairment to them or contamination from them during flooding.
36

37 **K) Watercourse Carrying Capacity:** The flood carrying capacity within any altered or
38 relocated portion of a watercourse shall be maintained.
39

40 **SECTION 10.5 STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES.**

41
42 A) The DRB may approve the repair, relocation, replacement, or enlargement of a
43 nonconforming structure within a regulated flood or other hazard area, subject to
44 compliance with applicable federal and state laws and regulations, and provided that
45 the following criteria are met:

Commented [GB111R110]: NRPC can get them/refer them to copy of FIRM

Commented [EK112]: Delete? Review with NRPC

Commented [EK113R112]: J & K- We would like to delete these paragraphs because they involve state jurisdictions. Is NRPC ok with this?

Commented [GB114R112]: I I would not recommend deleting it. These are in the model language developed by the State. Keeping close to the FEMA model is important for flood insurance.

- 1 1) The DRB finds that the repair, relocation, or enlargement of the nonconforming
2 structure is required for the continued economically feasible operation of a
3 nonresidential enterprise.
4 2) The DRB finds that the repair, relocation, or enlargement of the nonconforming
5 structure will not increase flood levels in the regulatory floodway, increase the
6 risk of other hazard in the area, or threaten the health, safety, and welfare of the
7 public or other property owners.
8 3) The permit so granted states that the repaired, relocated, or enlarged
9 nonconforming structure is located in a regulated flood or other hazard area,
10 does not conform to the regulations pertaining to that area, and will be
11 maintained at the risk of the owner.
12

13 **SECTION 10.6 VARIANCES TO THE DEVELOPMENT STANDARDS.**
14

15 Variances shall be granted by the DRB only in accordance with 24 V.S.A. § 4469 and in
16 accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the
17 National Flood Insurance Program regulations. A decision in favor of the appellant shall
18 be granted if all the following facts are found, and the supporting findings are specified
19 in the decision:
20

- 21 A) Variances are generally limited to a lot size less than one-half acre relating to
22 historical structures (provided the proposed repair or rehabilitation will not preclude
23 the structure's continued designation as an historic structure), or a necessary
24 development functionally dependent on stream access;
25
26 B) The variance, if authorized shall be issued by the DRB only upon:
27 1) Determination that failure to grant the variance would result in exceptional
28 hardship to the applicant; and,
29 2) Determination that the variance will not result in increased flood heights,
30 increased susceptibility to flooding or erosion, additional threats to public safety
31 or infrastructure (including emergency services during flood events), or
32 extraordinary public expense;
33 3) The variance will not increase the potential of materials being swept onto other
34 lands or into the stream and causing damage to others;
35
36 C) The variance if granted will represent the minimum variance that will afford relief and
37 will represent the least deviation possible from the bylaw and from the plan;
38
39 D) Any variance issued will inform the applicant in writing over the signature of a
40 community official that the issuance of a variance to construct a structure below the
41 base flood elevation increases risk to life and property and will result in increased
42 flood insurance premiums up to amounts as high as \$25 for \$100 of coverage.
43 Such notification shall be maintained with a record of all variance actions.
44

45 **SECTION 10.7 RECORDING REQUIREMENTS**
46

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

- 3
4 A) All permits issued for development in areas of special flood hazard;
5 B) The elevation, in relation to mean sea level, of the lowest floor, including basement,
6 of all new or substantially improved buildings;
7 C) The elevation, in relation to mean sea level, to which buildings have been
8 floodproofed;
9 D) All flood proofing certifications required under this regulation; and
10 E) All variance actions, including justification for their issuance.

11
12 **SECTION 10.8 VIOLATION OF FLOOD HAZARD AREA REGULATIONS**

- 13
14 A) Where a violation of the Flood Hazard Overlay District standards and regulations
15 has not been cured after a warning notice has been sent in accordance with the Act,
16 the ZA shall submit a declaration to the Administrator of the NFIP requesting a
17 denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968,
18 as amended, authorizes FEMA to deny flood insurance to a property declared by a
19 community to be in violation of their flood hazard area regulations. The declaration
20 shall consist of:
21 1) The name of the property owner and address or legal description of the property
22 sufficient to confirm its identity or location,
23 2) A clear and unequivocal declaration that the property is in violation of a cited
24 State or local law, regulation, or ordinance,
25 3) A clear statement that the public body making the declaration has authority to do
26 so and a citation to that authority,
27 4) Evidence that the property owner has been provided notice of the violation and
28 the prospective denial of insurance, and
29 5) A clear statement that the declaration is being submitted pursuant to Section
30 1316 of the National Flood Insurance Act of 1968, as amended.

31
32 **SECTION 10.9 FLOOD HAZARD DEFINITIONS**

Commented [EK115R112]:

Commented [EK116]: Confirm that flood level is 102'

33
34 Definitions in this section apply only to the Flood Hazard Regulations in this article.
35 Additional definitions are found in Article 11.

36
37 **AREA OF SPECIAL FLOOD HAZARD:** Special flood hazard area.

38
39 **BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in
40 any given year (commonly referred to as the 100-year flood).

41
42 **BASE FLOOD ELEVATION (BFE):** The height of the base flood, usually in feet, in
43 relation to the National Geodetic Vertical Datum of 1929, the North American Vertical
44 Datum of 1988, or other datum referenced in the Flood Insurance Study report, or
45 average depth of the base flood, usually in feet, above the ground surface.
46

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

5
6 **COMMON PLAN OF DEVELOPMENT:** Where a structure will be refurbished over a
7 period of time. Such work might be planned unit by unit.

8
9 **CRITICAL FACILITIES:** Include police stations, fire and rescue facilities, hospitals,
10 shelters, schools, nursing homes, water supply and waste treatment facilities, and other
11 structures the community identifies as essential to the health and welfare of the
12 population and that are especially important following a disaster. For example, the type
13 and location of a business may raise its status to a Critical Facility, such as a grocery or
14 gas station that survive a flood and now are the only points for food and gas.

15
16 **DEVELOPMENT:** Any human-made change to improved or unimproved real estate,
17 including but not limited to buildings or other structures, mining, dredging, filling,
18 grading, paving, excavation or drilling operations or storage of equipment or materials.

19
20 **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home
21 park or subdivision for which the construction of facilities for servicing the lots on which
22 the manufactured homes are to be affixed (including, at a minimum, the installation of
23 utilities, the construction of streets, and either final site grading or the pouring of
24 concrete pads) is completed before the effective date of the initial floodplain
25 management regulations adopted by a community.

26
27 **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:**
28 The preparation of additional sites by the construction of facilities for servicing the lots
29 on which the manufactured homes are to be affixed (including the installation of
30 utilities, the construction of streets, and either final site grading or the pouring of
31 concrete pads).

32
33 **FILL:** Any placed material that changes the natural grade, increases the elevation, or
34 diminishes the flood storage capacity at the site.

35
36 **FLOOD:** (a) A general and temporary condition of partial or complete inundation of
37 normally dry land areas from: the overflow of inland or tidal waters; the unusual and
38 rapid accumulation or runoff of surface waters from any source; and mudslides which
39 are proximately caused by flooding and are akin to a river of liquid and flowing mud on
40 the surfaces of normally dry land areas, as when earth is carried by a current of water
41 and deposited along the path of the current. (b) The collapse or subsidence of land
42 along the shore of a lake or other body of water as a result of erosion or undermining
43 caused by waves or currents of water exceeding anticipated cyclical levels or suddenly
44 caused by an unusually high water level in a natural body of water, accompanied by a
45 severe storm, or by an unanticipated force of nature, such as flash flood or abnormal
46 tidal surge, or by some similarly unusual and unforeseeable event which results in
47 flooding.

- 1
2 **FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the
3 Federal Insurance Administrator has delineated both the special flood hazard areas and
4 the risk premium zones applicable to the community. In some communities the hazard
5 boundaries are available in paper, pdf, or Geographic Information System formats as a
6 Digital Flood Insurance Rate Map (DFIRM).
7
- 8 **FLOOD INSURANCE STUDY:** An examination, evaluation and determination of flood
9 hazards and, if appropriate, the corresponding water surface elevations or an
10 examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood
11 related erosion hazards.
12
- 13 **FLOODPLAIN OR FLOOD-PRONE AREA:** Any land area susceptible to being
14 inundated by water from any source (see definition of "flood").
15
- 16 **FLOOD PROOFING:** Any combination of structural and non-structural additions,
17 changes, or adjustments to structures which reduce or eliminate flood damage to real
18 estate or improved real property, water and sanitary facilities, structures and their
19 contents.
20
- 21 **FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas
22 that must be reserved in order to discharge the base flood without cumulatively
23 increasing the water surface elevation more than one foot at any point. Please note that
24 where the Special Flood Hazard Areas have established base flood elevations, the
25 extent of FEMA floodways may be shown on a separate series of panels
26
- 27 **FLOODWAY, REGULATORY IN THE TOWN OF NORTH HERO:** The regulatory
28 floodway in of the Town of North Hero is the channel of a river or other watercourse and
29 the adjacent land areas that must be reserved in order to discharge the base flood
30 without cumulatively increasing the water surface elevation more than one foot at any
31 point.
32
- 33 **FUNCTIONALLY DEPENDENT USE:** A use which cannot perform its intended purpose
34 unless it is located or carried out in close proximity to water.
35
- 36 **HISTORIC STRUCTURE:** Any structure that is: (a) listed individually in the National
37 Register of Historic Places (a listing maintained by the Department of the Interior) or
38 preliminarily determined by the Secretary of the Interior as meeting the requirements for
39 individual listing on the National Register; (b) certified or preliminarily determined by the
40 Secretary of the Interior as contributing to the historical significance of a registered
41 historic district or a district preliminarily determined by the Secretary to qualify as a
42 registered historic district; (c) individually listed on a state inventory of historic places in
43 states with historic preservation programs which have been approved by the Secretary
44 of the Interior; or (d) individually listed on a local inventory of historic places in
45 communities with historic preservation programs that have been certified either: (i) by
46 an approved state program as determined by the Secretary of the Interior or (ii) directly
47 by the Secretary of the Interior in states without approved programs.

1
2 **LETTER OF MAP AMENDMENT (LOMA):** A letter issued by the Federal Emergency
3 Management Agency officially removing a structure or lot from the flood hazard zone
4 based on information provided by a certified engineer or surveyor. This is used where
5 structures or lots are located above the base flood elevation and have been
6 inadvertently included in the mapped special flood hazard area.
7

8 **LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement).
9 An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building
10 access or storage in an area other than a basement area is not considered a building's
11 lowest floor; provided, that such enclosure is not built so as to render the structure in
12 violation of the applicable non-elevation design requirements of 44 CFR §60.3.
13

14 **MANUFACTURED HOME:** A structure, transportable in one or more sections, which is
15 built on a permanent chassis and is designed for use with or without a permanent
16 foundation when attached to the required utilities. The term "manufactured home" does
17 not include a "recreational vehicle".
18

19 **MINOR IMPROVEMENT:** Any repairs, reconstruction, or improvement of a structure
20 (other than customary maintenance), the cost of which is less than fifty (50) percent of
21 the market value of the existing structure.
22

23 **NEW CONSTRUCTION:** Structures for which the start of construction commenced on
24 or after the effective date of the floodplain management regulation adopted by a
25 community and includes any subsequent improvements to such structures. For the
26 purposes of determining insurance rates, "new construction" means structures,
27 including manufactured homes, for which the "start of construction" commenced on or
28 after the effective date of an initial FIRM or after December 31, 1974, whichever is later,
29 and includes any subsequent improvements to such structures.
30

31 **NON-RESIDENTIAL:** Includes, but is not limited to: small business concerns, churches,
32 schools, nursing homes, farm buildings (including grain bins and silos), pool houses,
33 clubhouses, recreational buildings, government buildings, mercantile structures,
34 agricultural and industrial structures, and warehouses.
35

36 **RECREATIONAL VEHICLE:** A vehicle which is: (a) Built on a single chassis; (b) 400
37 square feet or less when measured at the largest horizontal projection; (c) Designed to
38 be self-propelled or permanently towable by a light duty truck; and (d) Designed
39 primarily not for use as a permanent dwelling but as a temporary living quarters for
40 recreational, camping, travel, or seasonal use.
41

42 **SPECIAL FLOOD HAZARD AREA:** The floodplain within a community subject to a 1
43 percent or greater chance of flooding in any given year. For purposes of these
44 regulations, the term "area of special flood hazard" is synonymous in meaning with the
45 phrase "special flood hazard area". This area is usually labeled Zone A, AO, AH, AE, or
46 A1-30 in the most current flood insurance studies and on the maps published by the
47 Federal Emergency Management Agency. Maps of this area are available for viewing in

1 the town office or online from the FEMA Map Service Center: msc.fema.gov. Base flood
2 elevations have not been determined in Zone A where the flood risk has been mapped
3 by approximate methods. Base flood elevations are shown at selected intervals on
4 maps of Special Flood Hazard Areas that are determined by detailed methods. Please
5 note, where floodways have been determined they may be shown on separate map
6 panels from the Flood Insurance Rate Maps.
7

8 **START OF CONSTRUCTION:** Includes substantial improvement, and means the date
9 the building permit was issued provided the actual start of construction, repair,
10 reconstruction, rehabilitation, addition placement, or other improvement was within 180
11 days of the permit date. The actual start means either the first placement of permanent
12 construction of a structure on a site, such as the pouring of slab or footings, the
13 installation of piles, the construction of columns, or any work beyond the stage of
14 excavation; or the placement of a manufactured home on a foundation. Permanent
15 construction does not include land preparation, such as clearing, grading and filling; nor
16 does it include the installation of streets and/or walkways; nor does it include excavation
17 for a basement, footing, piers, or foundations or the erection of temporary forms; nor
18 does it include the installation on the property of accessory buildings, such as garages
19 or sheds not occupied as dwelling units or not part of the main structure. For a
20 substantial improvement, the actual start of construction means the first alteration of any
21 wall, ceiling, floor, or other structural part of a building, regardless whether that
22 alteration affects the external dimensions of the building.
23

24 **STRUCTURE:** A walled and roofed building, as well as a manufactured home, and any
25 related built systems, including a gas or liquid storage tanks.
26

27 **SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the
28 cost of restoring the structure to its before-damaged conditions would equal or exceed
29 50 percent of the market value of the structure before the damage occurred.
30

31 **SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other
32 improvement of a structure after the date of adoption of these regulations, the cost of
33 which, over three years, or over a the period of a common plan of development,
34 cumulatively equals or exceeds 50 percent of the market value of the structure before
35 the "start of construction" of the improvement. This term includes structures which have
36 incurred "substantial damage", regardless of the actual repair work performed. The
37 term does not, however, include either: (a) Any project for improvement of a structure to
38 correct existing violations of state or local health, sanitary, or safety code specifications
39 which have been identified by the local code enforcement official and which are the
40 minimum necessary to assure safe living conditions or (b) Any alteration of a "historic
41 structure", provided that the alteration will not preclude the structure's continued
42 designation as a "historic structure."
43

44 **VIOLATION:** The failure of a structure or other development to be fully compliant with
45 these regulations. A structure or other development without the elevation certificate,
46 other certifications, or other evidence of compliance required in Federal Regulation 44

1 CFR 60.3 is presumed to be in violation until such time as that documentation is
2 provided.
3

1 **ARTICLE 11: GENERAL DEFINITIONS**

2
3 Except where specifically defined herein, all words used in these Regulations shall carry
4 their customary meanings. The word "shall" is mandatory and the word "may" is
5 permissive. Where doubt exists as to the precise meaning of any word or words in
6 these Regulations, the DRB shall rule on the interpretation.

7
8 **ABANDONED Structure:** A structure that is uninhabited and uninhabitable for two or
9 more years.

10
11 **ACCESSORY STRUCTURE/USE:** See Structure/Use, Accessory.

12
13 **BED AND BREAKFAST:** Overnight accommodations and a morning meal in a single
14 family residence provided to transients for compensation.

15
16 **BUILDING:** Any structure having a roof supported by columns or walls intended for the
17 shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or
18 materials of any kind.

19
20 **BUILDING, ACCESSORY:** See Structure, Accessory.

21
22 **CAMPGROUND:** A recreational campground or camping park where transient
23 residence is offered or provided for seasonal or short-term vacation or recreational
24 purposes on which may be located cabins, tents, or lean-tos, or campsites designed for
25 temporary set-up of portable or mobile camping, recreational, or travel dwelling units
26 including tents, campers, and recreational vehicles such as motor homes, travel trailers,
27 truck campers, and van campers.

28
29 **CASUAL SALES (GARAGE SALE):** The occasional (not more than six (6) days per
30 year) sale of goods on one's own residential property. Casual sale includes garage
31 sales, yard sales, lemonade stands, and the like.

32
33 **COMMERCIAL USE:** An activity involving the sale of goods or services carried out for
34 profit.

35
36 **CONGREGATE CARE FACILITY:** A facility licensed by the state which provides
37 primarily non-medical residential care services to 9 or more individuals in need of
38 personal assistance essential for sustaining the activities of daily living, or for the
39 protection of the individual, excluding members of the resident family or persons
40 employed by the facility, on a 24-hour a day basis. See also Personal or Professional
41 Service.

42
43 **DAYCARE CENTER:** Any establishment, whether providing services in-home or in a
44 separate non-residential facility, providing childcare service on a regular or continual
45 basis for a fee and does not meet the definition of a Family Childcare Home. See also
46 Personal or Professional Service.

Commented [GB117R116]: Yes
Commented [EK118]: Should we regulate bar/tavern as separate use. What standards to other municipalities use to differentiate between restaurants and bars/taverns.

Commented [EK119R118]: See memo
Commented [EK120]: Does NRPC have a better definition?
Commented [EK121R120]:

- 1
2 **DOCK:** A wharf, pier, or other structure permanently or temporarily anchored to the
3 shore and projecting into the Lake.
4
- 5 **DWELLING, SINGLE FAMILY:** A structure containing one dwelling unit.
6
- 7 **DWELLING, TWO FAMILY:** A structure containing two dwelling units, including units
8 that are located one over the other and units in a row separated by one or more vertical
9 common fire resistant walls.
10
- 11 **DWELLING, MULTI-FAMILY:** A structure containing three or more dwelling units,
12 including units that are located one over the other and units in a row separated by one
13 or more vertical common fire resistant walls.
14
- 15 **DWELLING, ACCESSORY:** An efficiency or one bedroom apartment located within or
16 appurtenant to a single family dwelling, that is clearly subordinate to a single family
17 dwelling, and has facilities and provisions for independent living, including sleeping,
18 food preparation, and sanitation.
19
- 20 **EARTH RESOURCE EXTRACTION:** The commercial extraction of minerals, including
21 solids such as sand and gravel, liquids such as water, and gases such as natural gas.
22 It may also include preparation activities such as crushing and washing customarily part
23 of earth resource extraction activities. See also Light Industry.
24
- 25 **FAMILY CHILDCARE HOME:** A business providing childcare service within the
26 provider's place of residence to not more than 6 full time children and 4 part time
27 children on a regular or continual basis for a fee, which is considered to constitute a
28 permitted single family residential use of property.
29
- 30 **FENCE:** An artificially constructed barrier of any material or combination of materials
31 erected to enclose, screen or separate areas.
32
- 33 **GAS / MOTOR VEHICLE SERVICE STATION:** Any building, land area or other
34 premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels
35 and/or the servicing and repair of automobiles.
36
- 37 **GROUP HOME:** A state licensed or registered residential care home serving not more
38 than 8 persons who are handicapped or developmentally disabled as defined in 9
39 V.S.A. §4501. In accordance with the Act [§4412G], such a group home shall be
40 considered by right to constitute a permitted single family residential use of property,
41 except that no such home shall be so considered if it is located within 1,000 feet of
42 another such home.
43
- 44 **HOME BUSINESS:** Home Business is a use of an accessory building or portion of a
45 dwelling for a business which exhibits no apparent indications that a business exists.
46 Uses otherwise listed in Table 5.1 may qualify as a Home Business if they meet the
47 requirements of Section 8.9.

- 1
2 **HOME OCCUPATION:** Use of a portion of a residential lot by a resident for an
3 occupational business with not more than one non-family full time equivalent employee,
4 and which could normally be expected to be customarily located in the area and that will
5 not change the character of the neighborhood. Home Occupations do not generate
6 more than an average of 10 vehicle trips per weekday. Uses otherwise listed in Table
7 5.1 may qualify as a Home Occupation if they meet the requirements of Section 8.9.
8
- 9 **LAKE ACCESS STRUCTURE:** A stairway or pedestrian ramp, boat launch ramp, dock
10 or other structure constructed to gain access to the lakeshore.
11
- 12 **LAND DEVELOPMENT:** The division of a parcel into two (2) or more parcels; the new
13 construction, reconstruction, conversion, structural alteration, relocation, or enlargement
14 of any building or other structure; any mining or earth resource extraction; or any
15 change in the use of any building, other structure, or land, or extension of the use of
16 land.
17
- 18 **LAND USE.** How a parcel of land, including any structures located thereon, is being
19 used. Table 5.1 identifies different types of land uses.
20
- 21 **LAND USE, ACCESSORY:** See Structure, Accessory.
22
- 23 **LAND USE, PRINCIPAL:** A use directly involved with the primary purpose of ownership
24 on a particular lot.
25
- 26 **LIGHT INDUSTRY:** A light industrial facility that meets the performance standards and
27 any other applicable standards in these Regulations, including such uses as
28 manufacturing, wholesale trade, saw mills, slaughter houses, and earth resource
29 extraction.
30
- 31 **LODGING ESTABLISHMENT:** Building or buildings containing rooms which are rented
32 for money or other compensation as sleeping units for transients, each sleeping unit
33 consisting of, at the least, a bedroom and a bathroom (shared bathrooms are also
34 permitted).
35
- 36 **LOT:** See Parcel.
37
- 38 **LOT SIZE:** The total area within the lot lines of a lot, including any road rights-of-way.
39
- 40 **LOT FRONTAGE:** The length of the lot line measured at the road right-of-way line.
41
- 42 **LOT WIDTH:** The horizontal distance between the side lines of a lot measured at right
43 angles to its depth along a straight line parallel to the road frontage at the minimum
44 required setback line.
45
- 46 **LOT COVERAGE:** The portion of a lot that is covered by buildings measured as the
47 ratio of the building footprint area to the total lot area.

1
2 **MARINA:** A business whose purpose is the sale, servicing, launching, or rental of boats
3 and/or the sale or rental of moorings or docking berths. A marina may also include
4 services ancillary to the marina operation such as retail, repair, food, laundry facilities,
5 etc.
6

7 **MOBILE HOME PARK:** Any parcel of land under single or common ownership or
8 control which contains, or is designed, laid out, or adapted to accommodate, more than
9 two mobile homes for residential use. Mobile home park does not mean land or
10 premises used solely for storage or display of mobile homes. See also Campground.
11

12 **MOTOR VEHICLE SALES:** The use of any building, land area, or other premises for
13 the display and sale of new or used automobiles generally but may include light trucks
14 or vans, trailers, or recreation vehicles and including any vehicle preparation or repair
15 work conducted as an accessory use. Also included is the sale of modular or mobile
16 homes.
17

18 **PARCEL:** A contiguous lot or tract of land owned and recorded as the property of the
19 same person(s) or controlled by a single entity.
20

21 **PERSONAL OR PROFESSIONAL SERVICE:** Establishment primarily engaged in
22 providing assistance or providing services involving the care of a person or of a persons
23 goods or apparel, such as salons and barbershops, laundromats and dry cleaners, linen
24 supply, shoe repair, funeral services, health clubs, clothing rental, lawyer's office,
25 accountant's office, engineer's office, kennels, veterinary offices, automobile repair, and
26 other professional services and offices. Also includes congregate care facility, daycare
27 center, and healthcare office or facility.
28

29 **PLACE OF WORSHIP:** A special purpose building that is architecturally designed and
30 particularly adapted for the primary use of conducting on a regular basis formal religious
31 services by a religious congregation.
32

33 **PUBLIC OR SEMI PUBLIC FACILITIES:** A building or other facility owned, leased,
34 held, used, and/or controlled exclusively for public or semi-public purposes by a
35 municipality, state or federal government, regulated utility or railroad. Such facilities
36 include, but are not limited to municipal buildings and garages, water and wastewater
37 facilities, and educational facilities. This definition also includes uses in Title 24 V.S.A.
38 § 4413(a).
39

40 **PRINCIPAL USE/STRUCTURE:** See Structure/Use, Principal.
41

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

1 gymnasiums, swimming pools, hobby workshops, and similar places of indoor
2 commercial recreation.
3
4 **RESIDENTIAL MARINE ASSOCIATION:** Any commonly held shoreline property which
5 is a common element of or an appurtenance to a residential development on the same
6 or adjacent property that provides access to the shoreline for more than 2 residences.
7
8 **RESTAURANT:** Establishment where food and beverage are prepared and served in a
9 form ready for consumption, which may be consumed on or off-site.
10
11 **RETAIL SALES:** Establishments engaged in selling goods or merchandise to the
12 general public and rendering services incidental to the sale of such goods.
13
14 **SETBACK (YARD AND ROAD):** The distance between any land development and any
15 lot line.
16
17 **SETBACK (LAKE, STREAM OR WETLAND):** The distance between any land
18 development and the ~~top of the natural bank~~mean water level of Lake Champlain
19 (95.5'), or top of bank of any stream, or the edge of a wetland.
20
21 **SOLAR ARRAY:** A system which uses one or more solar panels to convert sunlight
22 into electricity. It consists of multiple components, including photovoltaic modules,
23 mechanical and electrical connections and mountings and means of regulating and/or
24 modifying the electrical output. Solar arrays are typically either freestanding or mounted
25 on an existing structure.
26
27 **STORAGE FACILITIES:** A structure containing self-service separate, individual and
28 private storage spaces of varying sizes leased or rented on individual leases for varying
29 periods of time.
30
31 **STRUCTURAL ALTERATION:** Any change in either the supporting members of a
32 building, such as bearing walls, columns, beams, and girders, or in the dimensions or
33 configurations of the roof or exterior walls.
34
35 **STRUCTURE:** A combination of materials to form a construction for use, occupancy, or
36 ornamentation whether installed on, above, or below the surface of land or water.
37 Structures include but are not limited to buildings, signs, fences, carports, porches,
38 patios, swimming pools, freestanding solar arrays, freestanding towers, and lean-tos.
39 Specifically not included are sidewalks, driveways, underground utilities, and softscape
40 landscaping such as trees, plants, groundcover, and mulching.
41
42 **STRUCTURE/USE, ACCESSORY:** An incidental or subordinate structure and/or use
43 that is secondary or ancillary to the primary use of the same lot. Accessory structures
44 include garages, sheds, barns, pump houses, and other out buildings, antennae,
45 towers, swimming pools, and other structures
46

- 1 **STRUCTURE/USE, PRINCIPAL:** A use and/or structure directly involved with the
2 primary purpose of ownership on a particular lot.
3
- 4 **STRUCTURE/USE, TEMPORARY:** A use and/or structure established for a limited
5 duration with the intent to discontinue that use upon the expiration of a specified time
6 period.
7
- 8 **TRAVEL TRAILER PARK/CAMP:** See Campground.
9
- 10 **WIND ENERGY GENERATION SYSTEM (SMALL OFF-GRID):** A wind energy
11 generation system consisting of a wind turbine, a tower, and associated control or
12 conversion electronics, which has a rated capacity of not more than 100 kW and that is
13 not connected to the electric utility system grid and therefore not a net-metered system.
14
- 15 **YACHT CLUB:** A facility similar to a marina but operated on a non-profit basis for the
16 benefit of members or associates. The land may be held or controlled by either an
17 individual or a business entity. A yacht club may also include services ancillary to the
18 yacht club such as retail, repair, food, laundry facilities, etc.
19
- 20 **YOUTH CLUB OR CAMP:** Parcel used wholly or partially for education or recreation
21 exclusively for members or accommodating five or more children under the age of 18 for
22 a period of or portion of two or more days.
23
- 24 **WIRELESS TELECOMMUNICATIONS FACILITY:** A tower or other support structure,
25 including antennae, related equipment, and base structures, which will extend 20 or
26 more feet vertically, and be used primarily for communication or broadcast purposes to
27 transmit or receive, communicate on or broadcast signals.
28
29
30
31
32