

## **TOWN OF ELMORE, VERMONT**

### **ZONING BYLAW**

**ADOPTED APRIL 11, 2000**

**AMENDED JULY 25, 2005**

**AMENDED JULY 8, 2015**

**EFFECTIVE JULY 29, 2015**

**AMENDED APRIL 12, 2017**

**EFFECTIVE MAY 10, 2017**

### **SUBDIVISION REGULATIONS**

**ADOPTED JANUARY 12, 2005**

**EFFECTIVE FEBRUARY 2, 2005**

### **UNIFIED ZONING AND SUBDIVISION BYLAWS**

**ADOPTED: JANUARY 20, 2020**

**EFFECTIVE: FEBRUARY 11, 2020**

**PREPARED BY: ELMORE PLANNING COMMISSION  
WITH TECHNICAL ASSISTANCE FROM: LAMOILLE COUNTY PLANNING COMMISSION &  
BURNT ROCK INC. ASSOCIATES IN COMMUNITY PLANNING (2005 SUBDIVISION  
REGULATIONS)**

**FUNDED IN PART BY A MUNICIPAL PLANNING GRANT  
AWARDED BY THE VERMONT AGENCY OF COMMERCE & COMMUNITY DEVELOPMENT**

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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## ARTICLE I. AUTHORITY AND PURPOSE

### Section 1.1 Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as “the Act,” there is hereby established a Unified Zoning and Subdivision Bylaw for the Town of Elmore as set forth in the text and maps contained herein. This bylaw shall be known as the “**Elmore Zoning and Subdivision Bylaw.**”

### Section 1.2 Purpose

It is the purpose of this unified zoning and subdivision bylaw to promote the health, safety and general welfare of the residents, protect natural resources, water quality, wildlife and recreational features of the Town of Elmore and to provide for and promote the orderly development of the Town, to further the goals and purposes of the Act [§4302], and to implement the Elmore Town Plan as most recently adopted.

### Section 1.3 Application and Interpretation of this Bylaw

- A. The application of this bylaw is subject to the provisions of all subchapters of the Act as most recently amended. In accordance with the Act [§4446], no land development and/or subdivision as defined herein shall commence within the jurisdiction of the Town of Elmore except in compliance with the provisions of this bylaw. Land development shall not include customary maintenance activities. Any land development not specifically authorized under this bylaw, unless otherwise exempted under the Act, or Section 1.4, is prohibited.
- B. Prior to any subdivision of land, construction, or site preparation for development; any contract for the sale of all or any part of the land or structures involved; the issuance of a permit for the erection of any building in a proposed subdivision; and before any subdivision plat may be filed with the Town Clerk, the subdivider or authorized agent shall apply for and secure approval of the proposed subdivision in accordance with the procedures set forth in these regulations.
- C. This bylaw is intended to repeal the previous bylaw, but it is not intended to annul or in any way impair other regulations or permits previously adopted or issued. If any development subject to regulations under this bylaw is also subject to other Town or State regulations, the most stringent or restrictive regulations shall apply.
- D. Some sections of this Bylaw include pictorial sketches to assist readers and applicants in understanding the regulations. These sketches are not to scale and are **for illustration purposes only**. If there is a conflict between any sketch and the text of the regulations, the text shall control.

**Land Development:** the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, or of any mining, excavation, or landfill, any change in use of any building or other structure, or land or extension of use of lands. [24 V.S.A., §4303(3)].

**Subdivision:** The division of a lot, tract or parcel of land into two or more lots, tracts, sites, or other divisions of land for the purpose, whether immediate or future, of sale or land development. It includes resubdivision and the division of a lot or parcel held in common ownership and subsequently divided into parts among the owners.

### Section 1.4 Exemptions

No zoning permit shall be required for the following, unless otherwise regulated under conditions of the Flood Hazard Area Development Standards specified in the Elmore Flood Hazard Regulations, as most recently amended.

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- A. Any building for which construction began prior to the effective date of these regulations, provided that such construction is completed within one (1) year of the effective date.
- B. Normal maintenance and repair of an existing structure that does not result in any change to the exterior dimensions or height of the structure, or a change in use.
- C. Required agricultural and best management practices (RAPs, BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however written notification, including a sketch plan of the structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs.
- D. Accepted forest management practices (AMPs) for silviculture as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act [§4413(d)].
- E. Residential entry stairs, handicap ramps, and fences less than six (6) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic. Such entry stairs, handicap ramps and fences shall also comply with the special district standards related to the Village District (Table 2.1) and Shoreland Districts (Table 2.5 and Table 2.6).
- F. Accessory structures which do not exceed eighty (80) square feet in floor area or ten (10) feet in height and are located at least five (5) feet from all property lines, unless located in the Developed Shoreland District or the Undeveloped Shoreland District.
- G. Garage sales, yard sales and auctions not exceeding three (3) consecutive days, nor more than eight (8) days per calendar year, which do not cause unsafe traffic conditions or parking problems.
- H. Facilities operated by public utilities, including power generation and transmission facilities, which are regulated by the Vermont Public Service Board [30 V.S.A. §248]; however such facilities shall be in conformance with the Elmore Town Plan.

## **Section 1.5 Adoption and Amendment; Effective Date**

This bylaw shall be adopted, and may be amended, in accordance with the requirements and procedures outlined in the Act [§4441, §4442]. The provisions of this bylaw shall become effective immediately upon adoption by voters of the Town at a duly warned Town Meeting or, in the event of an amendment is adopted by a majority of the Elmore Selectboard it shall take effect twenty-one (21) days from the date of adoption.

## **Section 1.6 Severability**

The provisions of this bylaw are severable. The invalidity of any provision or application of this bylaw shall not invalidate any other part thereof.

## **Section 1.7 Coordination of Review**

Where an application is subject to two (2) or more types of review by the Development Review Board, attempts shall be made to conduct review procedures concurrently. All procedures, submittal requirements, and standards under each type of review must be complied with in this review.

## **ARTICLE II. ZONING DISTRICTS & DISTRICT STANDARDS**

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## Section 2.1 Establishment of Zoning Districts & Map

- A. For the purposes of this Bylaw, the Town of Elmore is divided into the following zoning districts: Village (VLG), Rural-East (R-E), Rural West (R-W), Forest Reserve (FR), Undeveloped Shoreland (USHR), and Developed Shoreland (DSHR). In addition, a Flood Hazard Overlay District (FLD) is established to protect public health and safety. A Remote Area Overlay (RAO) is also established.
- B. The location and boundaries of zoning districts are established as shown on the official “Town of Elmore Zoning Map”, and the associated overlay, which is made part of this Bylaw. The official zoning map and overlay shall be located in the Town Clerk’s office and shall be the final authority as to the current zoning status of land and waters in the town.
- C. The official zoning map and overlays shall be identified by the signatures of the Selectboard, as attested to by the Town Clerk. No changes of any nature shall be made on the official map or overlays except in conformance with zoning amendment procedures and requirements set forth in the Act [§4441, §4442].

## Section 2.2 Zoning District Descriptions

- A. **Village District (VLG).** The Village District shall include all lands within and adjacent to the historic Elmore Village depicted as “Village District” on the official zoning map.
- B. **Rural East District (RE).** The Rural District shall include all lands outside of the Village and Forest Reserve Districts lying to the east of the height of land of the Worcester Mountain Range, as depicted on the official zoning map.
- C. **Rural West District (RW).** The Rural District shall include all lands outside of the Village and Forest Reserve Districts lying to the west of the height of land of the Worcester Mountain Range and below 1200’ MSL, as depicted on the official zoning map.
- D. **Forest Reserve District (FR).** The Forest Reserve District shall include all lands at and above an elevation of 1,200 feet mean sea level (MSL) in the Worcester Mountain Range, as depicted on the official zoning map.
- E. **Undeveloped Shoreland District (USHR).** The Undeveloped Shoreland District shall include all lands which are located within 500 feet of the shorelines of Little Elmore Pond, Little Pond, and Hardwood Pond, as measured perpendicularly inland from the mean water level elevation and depicted on the official zoning map.
- F. **Developed Shoreland District (DSHR).** The Developed Shoreland District shall include all lands which are located within 500 feet of the shorelines of Lake Elmore as measured perpendicularly inland from the mean water level elevation, as depicted on the official zoning map.
- G. **Flood Hazard Area Overlay (FLD).** The Flood Hazard Area Overlay shall include
  - a. The Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations;
  - b. The River Corridors as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field-based

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assessments which are hereby adopted by reference. Where River Corridors are not mapped, the standards in the Town of Elmore Flood Hazard Regulations, as most recently amendments, shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope.

- H. **Remote Area Overlay (RAO).** The Remote Area Overlay shall include all lands east of VT Route 12 and south of Lacasse Road, Symonds Mill Road, or Brown Hill Road (respectively) that are ¼ mile (1320 ft) or more from a State Highway or Class II or III Town Road.

## Section 2.3 Interpretation of District Boundaries

Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlay, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streams, roads, transportation and utility rights-of-way shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such lot lines.
- C. Boundaries indicated as following shorelines shall be construed as being parallel the mean water level elevation. In the event of change in the shoreline the boundary shall be construed as moving with the shoreline.
- D. Boundaries indicated as following elevation contours shall be construed to follow such contours.
- E. Boundaries indicated as parallel to or extensions of features under the subsections (A)-(C) shall be so construed. Boundaries indicated as lines perpendicular to lines or features described in subsections (A)-(C) shall be construed to proceed at right angles from such lines or features. Distances not specifically indicated shall be determined by the scale of the map.
- F. The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of this Bylaw, shall not affect the location of such boundary line, except as otherwise noted under Subsection (C).
- G. The boundaries of the Flood Hazard Area Overlay District shall be determined in accordance with the procedures outlined in the Elmore Flood Hazard Regulations, as most recently amended. , the boundary shall be determined thro
- H. Where a district boundary line divides a lot in single ownership on or after the effective date of this Bylaw or of amendments thereto, the DRB may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- I. When a lot line is situated partly in the Town of Elmore and partly in a neighboring town, the standards of this Bylaw shall be applied to that portion of the lot that lies in the Town of Elmore in the same manner as if the entire lot were situated therein.

## Section 2.4 Application of District Standards

- A. The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in this Bylaw. All uses and structures must comply with all prescribed standards for the district in which they are located as set forth in Tables 2.1 - 2.7, and as defined in Article VII, unless otherwise permitted as a Conservation Subdivision under pursuant to

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Section 6.7. Non-conforming uses and non-complying structures shall be regulated in accordance with Section 3.8.

- B. Overlay district standards shall be applied concurrently with the standards for underlying districts. Where overlay districts impose more restrictive standards on the use of a structure or land, the standards of the overlay district shall apply.
- C. Prescribed uses for each district are classified as “permitted,” to be reviewed in accordance with Section 8.1, or “conditional” to be reviewed in accordance with Section 5.3.
- D. Any use not permitted by these regulations, unless specifically exempted under Section 1.4 shall be deemed to be prohibited.

## Section 2.5 District Objectives, Uses and Standards

The following tables set forth the stated purpose, allowable uses and specific standards for each zoning district.

**Table 2.1**  
**VILLAGE DISTRICT (VLG)**

(A) **Purpose:** The purpose of the Village District is to allow for a concentrated mix of residential, cultural and limited commercial uses within and immediately adjacent to the town’s historic community center in a manner that respects the historic settlement pattern of compact village surrounded by rural countryside. Generally, development shall be designed to be compatible with existing development with regard to building styles, materials, scale and orientation. Two story buildings of varying Vermont vernacular designs are encouraged in this District. An inviting streetscape is an important component of the Village District. Buildings located close to the street with deep front porches and/or storefronts contribute to this atmosphere. While sufficient parking is necessary for commercial viability, on-site parking lots should not dominate the visual appearance of the Village. On-street parking may also provide some of the parking needs of the District. Use of shared and off-site parking is strongly encouraged. New off-street parking lots are encouraged to be located to the side or rear of buildings. In recognition that much of the Village is located on the shore of Lake Elmore, shoreland protection standards shall be following in this district.

**(B) Permitted Uses:** *(Reviewed in accordance with Section 8.1)*

Accessory Dwelling (see Section 4.1 & subsection (E))  
Accessory Structure  
Accessory Use  
Cemetery  
Group Home (8 or fewer residents)  
Home Child Care (see Section 4.3)  
Home Occupation (see Section 4.5)  
Place of Worship  
Playground  
Single Family Dwelling  
Travel Information Kiosk

**(C) Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

Bed & Breakfast  
Community Care Facility (retirement/nursing)  
Community Facility  
Community Services  
Cottage Industry (see Section 4.5)  
Community Service Facility  
Day Care Facility  
Decks  
Educational Facility  
Health Clinic  
Mixed Use (provided uses are a combination of permitted or conditional uses otherwise allowed in the district)  
Multi-Family Dwelling  
Office Building (less than 2,500 sf floor area)  
Post Office  
Public Beach/Park  
Public Campground  
Recreation/Indoor  
Recreation/Outdoor  
Restaurant (excluding drive-through windows)  
Retaining Wall (along shoreline)  
Retail Commercial (less than 2,500 sf floor area)  
Service Commercial (less than 2,500 sf floor area)

**(D) Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: 30,000 sf. principal structure, or NA if served by Elmore Water Cooperative. See Subsection E(5)	Accessory Structure setback:	10 ft.
Minimum Lot Frontage: 75 ft.	Maximum Building Height:	35 ft.
Minimum Front Yard Setback: 15 ft.	Maximum Lot Coverage:	60%
Minimum Side Yard Setback: 15 ft.	Maximum Density for Multi-Family Dwellings:	NA: See Subsection E(6).
Minimum Rear Yard Setback: 25 ft.	Max Building Footprint	3,000sf

**(E) Supplemental Development Standards**

1. All development in the Village District that is within 500 feet of Lake Elmore and located on the Lake side (south) of Route 12 shall be subject to the Supplemental Standards for the Developed Shoreland District set forth in Table 2.6(E). Areas subject to these standards are depicted as “Village – Shoreline” on the Zoning Map.
2. With the exception of the replacement of existing non-residential aboveground and underground fuel storage facilities, fuel storage within 500' of Lake Elmore shall be limited to normal residential use.
3. Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.

4. Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height of floor area of the principal single family dwelling, may only be allowed by the DRB as a conditional use under Section 5.3.
5. There shall be no minimum lot size for lots within the Village District that are served by the Elmore Water Cooperative (WSID #5152), or its successor. New lots served by the Elmore Water Cooperative must be large enough to accommodate the required lot coverage of any existing or proposed structure/development.

*(Include note/examples in illustration or side bar): Maximum lot coverage allowed in the Village District is 60%. For every 100 square feet of lot area, up to 60 square feet of impervious lot coverage is allowed. Maximum lot coverage can be calculated by multiplying the total lot area by 0.60. Required minimum lot area can be calculated by dividing total lot coverage by 0.60.*

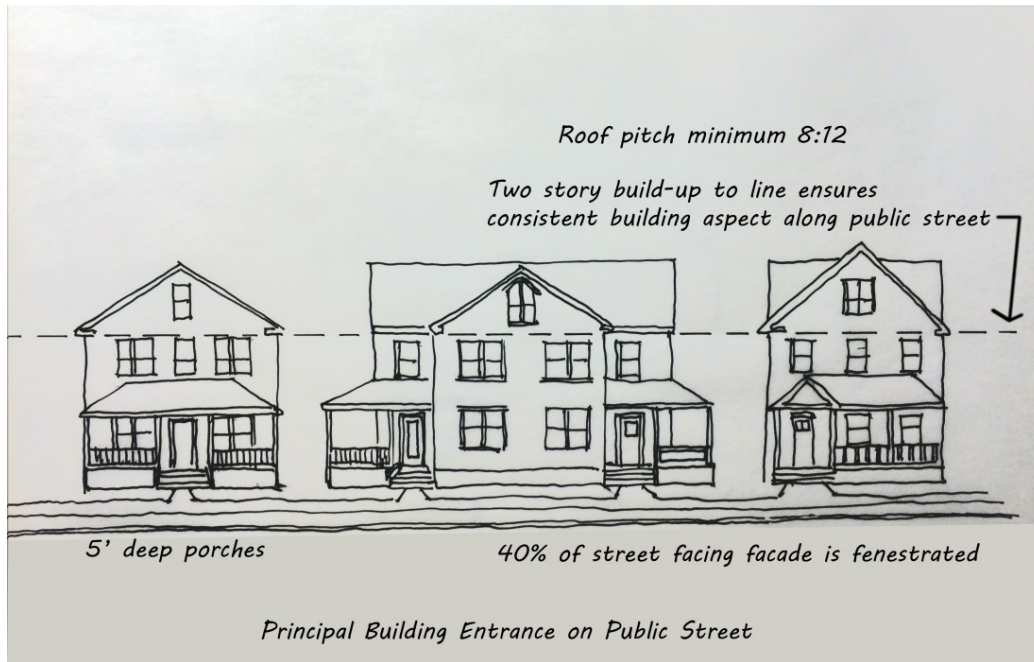
$$\text{Maximum lot coverage} = \text{total lot area} * 0.60$$

$$\text{Minimum lot area} = \text{total lot coverage} / 0.60$$

*(Example I: A structure and associated parking and other impervious surfacing totaling 1,200 sf of lot coverage must have a lot area of at least 2,000 square feet.*

*(Example II: A structure and associated parking and other impervious surfacing totaling 6,000 of lot coverage must have a lot area of at least 10,000 square feet)*

6. The total number of dwelling units in a multi-family dwelling or mixed-use principal structure shall be limited by maximum lot coverage and provisions of Article IX rather than the number of dwelling units per acre.
7. ***Additional Site Layout and Design Standards for Conditional Uses:*** Structures housing one or more conditional uses shall meet at least three of the following criteria:
  - a. The structure is oriented with its principal means of entrance facing a public street;
  - b. The structure has a roof pitch of at least 8:12; and/or
  - c. The street facing building façade contains a porch at least five feet deep; and/or
  - d. The structure is least two stories in height; and/or
  - e. The street facing building façade is no greater than forty feet in length OR is divided into multiple bays between twenty and forty feet in width; and/or
  - f. At least forty percent (40%) of the street facing building façade consists of windows (as defined in Article IX Definitions); and/or
  - g. The structure is oriented so that its deepest portion is perpendicular to the nearest public street; and/or
  - h. The total area of all windows on the south facing building façade is at least 50% greater than total area of all windows on the east- and west-facing walls; and/or
  - i. The east-west axis of the building is within 15 degrees of due east-west.
  - j. At least 90% of the south-facing fenestration is completely shaded (by awnings, overhangs, plantings) at solar noon on the summer solstice and unshaded at noon on the winter solstice; and/or
  - k. The building is framed and oriented to enable installation of rooftop solar arrays.



**RURAL-EAST DISTRICT (R-E)**

(A) **Purpose:** The purpose of the Rural-East District is to preserve the Town’s rural, agricultural, forested, and scenic character by allowing for compatible, low density forms of development typically found in the Town’s rural areas east of Elmore Mountain which have been determined to have a minimal impact on agricultural lands, water quality, forests and wildlife, and aesthetics. Portions of this district are within the Remote Area Overlay (RAO). Development within the RAO shall be subject to additional standards to provide adequate access for emergency vehicles and to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors, and forestlands.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 8.1)*  
 Accessory Dwelling (see Section 4.1 & subsection (E))  
 Accessory Farm Dwelling (see Section 4.1)  
 Accessory Structure  
 Accessory Use  
 Cemetery  
 Group Home (8 or fewer residents)  
 Home Child Care (see Section 4.3)  
 Home Occupation (see Section 4.5)  
 Single Family Dwelling

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*  
 Bed & Breakfast  
 Cottage Industry (see Section 4.5)  
 Community Services  
 Extraction/Quarrying (see Section 4.6)  
 Garden Center  
 Boarding Kennel  
 Mobile Home Park (see Section 4.7)  
 Multi-Family Dwelling  
 Primitive Camps  
 Public Campground  
 Recreation/Outdoor  
 Retreat  
 Rural Industry (see Section 4.9)  
 Salvage/Junk Yard (see Section 4.10)  
 Storage Facility (in Historic Barn only)  
 Telecommunications Facility (see Section 4.12)  
 Veterinary Clinic

(D) **Dimensional Standards (unless otherwise specified by use type):**

Min. Lot Size: 2ac. per principal use for lots	Minimum Front Yard Setback	25'
Created after Jan 1, 2000 (see Sect. 3.5)	Minimum Side Yard Setback	25'

Min. Lot Size: 1 ac. per principal use lots created prior to Jan 1, 2000 (See Sect. 3.5)	Minimum Rear Yard Setback	25'
Minimum Lot Frontage: 200'	Maximum Height	35'
Maximum Density for Multi-Family Dwelling 1 unit per minimum lot size for district	Maximum lot coverage	6%

**(E) Supplemental Development Standards**

1. Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
2. Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height of floor area of the principal single family dwelling, may only be allowed by the DRB as a conditional use under Section 5.3.
3. ***Additional Site Layout and Design Standards for Conditional Uses:***
  - a. **Structures associated with a conditional use** shall be located so as to minimize impacts on agricultural and forest resources. Structures shall either be constructed using Vermont vernacular design (as defined in Article 9 Definitions) or situated so as to be screened from neighboring properties and any public road. Screening shall be accomplished by either existing vegetation or landscaping
  - b. **Viability of Productive Forestland.** Development shall be designed and located to minimize encroachment (e.g., the placement of buildings and the extension of roads, driveways and utilities) into presently undeveloped, forested areas. All feasible building sites should be considered and the development should be located as close to existing roads, other development and/or disturbed areas as practical. Conditions may be imposed as appropriate with regard to development envelopes, siting, road lengths and setbacks in order to maintain large areas of contiguous, undeveloped forest land; avoid unnecessary fragmentation of distinct timber stands; and to allow access for long-term forest management.

**Table 2.3  
RURAL-WEST DISTRICT (R-W)**

(A) **Purpose:** The purpose of the Rural-West District is to preserve the Town’s rural, agricultural, forested and scenic character in accordance with the Town Plan, by allowing for compatible forms of development typically found in the Town’s rural areas west of Elmore Mountain which have been determined to have a minimal impact on agricultural lands, water quality, forests and wildlife, and aesthetics. The District will also limit overall density in those areas of Town far from community services and facilities. Development shall provide adequate access for emergency vehicles and ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and forestlands. The purpose of these constraints is (1) to maintain existing land uses in areas far from existing public roads in a manner that preserves fragile features, including steep slopes, soils unsuitable for on-site septic disposal, large areas of intact wildlife habitat, headwater streams and associated water supplies, and scenic resources; (2) to prevent undue financial burden on Town services including emergency services, utilities, and road maintenance, by discouraging scattered development in areas with poor or limited access; (3) to protect the health, welfare, and safety of Town residents by limiting development in areas characterized by poor site conditions and the lack of public access or services; (4) to encourage traditional land uses, such as forestry, passive outdoor recreation, and wildlife management, to continue in the district while limiting incompatible uses; and (5) to minimize fragmentation of forestlands and wildlife habitat.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 8.1)*

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

- Accessory Dwelling (see Section 4.1 & subsection (E)) (below 1,200’ msl)
- Accessory Farm Dwelling (see Section 4.1) (below 1,200’ msl)
- Accessory Structure (below 1,200’ msl)
- Accessory Use (below 1,200’ msl)
- Cemetery (below 1,200’ msl)
- Group Home (8 or fewer residents) (below 1,200’ msl)
- Home Child Care (see Section 4.3) (below 1,200’ msl)
- Home Occupation (see Section 4.5) (below 1,200’ msl)
- Single Family Dwelling (below 1,200’ msl)

- Bed & Breakfast
- Cemetery
- Community Services
- Cottage Industry (see Section 4.5)
- Extraction/Quarrying (see Section 4.6)
- Garden Center
- Boarding Kennel
- Mobile Home Park (see Section 4.7)
- Multi-Family Dwelling
- Primitive Camps
- Public Campground
- Recreation/Outdoor
- Rural Industry (see Section 4.9)
- Salvage/Junk Yard (see Section 4.10)
- Storage Facility (in Historic Barn only)
- Telecommunications Facility (see Section 4.12)
- Veterinary Clinic
- Agriculture, Forestry, above 1200’ msl

(D) **Dimensional Standards (unless otherwise specified by use type):**

**Below 1,200’ msl**

		<1/1/2000	>1/1/2000
Min. Lot Size 7ac/principal use after Jan 1, 2000 (See Sect. 3.5)	Minimum Lot Frontage:	250’	250’
Min. Lot Size 1.5ac/principal use before Jan 1, 2000 (See Sect. 3.5)	Min. Front Yard Set Back	25’	50’
	Min. Side Yard Set Back	25’	50’
	Min. Rear Yard Set Back	25’	50’
Max. Density, Multi-Family dwelling	Max Lot Coverage	3.5%	2%

1 Unit per minimum lot size for district                      Max Height                                      35'                                      35'  
Max. Residential Clearing after 1/1/2000: 2ac.

1. To allow flexibility in house site location and to address development standards related to natural and scenic resource protection, minimum setbacks for all structures shall be determined by the DRB pursuant to conditional use review (see Section 5.3). In no instance will a structure be permitted within twenty-five (25) feet of neighboring property boundaries.

**(E) Supplemental Development Standards**

1. Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
2. Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height of floor area of the principal single family dwelling, may only be allowed by the DRB as a conditional use under Section 5.3.
3. **Additional Site Layout and Design Standards for Conditional Uses:**
  - a. **Structures associated with a conditional use** shall be located so as to minimize impacts on agricultural and forest resources. Structures shall either be constructed using Vermont vernacular design (as defined in Article 9 Definitions) or situated so as to be screened from neighboring properties and any public road. Screening shall be accomplished by either existing vegetation or landscaping.
  - b. **Viability of Productive Forestland.** Development shall be designed and located to minimize encroachment (e.g., the placement of buildings and the extension of roads, driveways and utilities) into presently undeveloped, forested areas. All feasible building sites should be considered and the development should be located as close to existing roads, other development and/or disturbed areas as practical. Conditions may be imposed as appropriate with regard to development envelopes, siting, road lengths and setbacks in order to maintain large areas of contiguous, undeveloped forest land; avoid unnecessary fragmentation of distinct timber stands; and to allow access for long-term forest management.

**Table 2.4  
FOREST DISTRICT (FR)**

**(A) Purpose:** The purposes of the Forest Reserve District are: (1) to maintain existing land uses in the Worcester Mountain Range in a manner that preserves fragile features associated with high elevations, including steep slopes, soils unsuitable for on-site septic disposal, large areas of intact wildlife habitat, headwater streams, water supplies, water quality and scenic resources; (2) to prevent undue financial burden on town services including emergency services, utilities and road maintenance, by discouraging scattered development in areas with poor or limited access; (3) to protect the health, welfare and safety of Town residents by limiting development in areas characterized by poor site conditions and the lack of public access or services; and (4) to encourage traditional land uses, such as forestry, passive outdoor recreation, and wildlife management, to continue in the district while limiting incompatible uses; (5) to minimize or prevent fragmentation of forestlands and wildlife habitat; (6) meet EPA/ANR water quality regulations and (7) to minimize visual impact to all surrounding areas.

(B) **Permitted Uses:** (Reviewed in accordance with Section 8.1)

Recreation/Outdoor (undeveloped)

(C) **Conditional Uses:** (Reviewed in accordance with Section 5.3)

Accessory Structure (below 1,500' msl only)  
Accessory Use  
Accessory Dwelling (below elevation of 1,500' msl only see Section 4.1)  
Home Child Care (see Section 4.3)  
Home Occupation (see Section 4.5)  
Primitive Camps (below 1,500' msl only)  
Single Family Dwelling (below elevation of 1,500' msl only)  
Telecommunications Facility (see Section 4.12)

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: (residential): 7 acre per principal use for lots created after January 1, 2000 (see Section 3.5).  
Minimum Lot Size (residential): 1.5 acre per principal use for lots created prior to January 1, 2000 (see Section 3.5).

Minimum Lot Size (non-residential): 25 acres  
Minimum Lot Frontage: 250 ft.  
Minimum Setbacks: [see below]  
Maximum Height: 35 ft.  
Maximum Lot Coverage: 1.5%

Maximum cleared Residential Area: 2ac. For Lots created after 1May2017

(1) Minimum Setback. To allow flexibility in house site location and address development standards related to natural and scenic resource protection, minimum setbacks for all structures shall be determined by the DRB pursuant to conditional use review (see Section 5.3) In no instance will a structure be permitted within twenty-five (25) feet of neighboring property boundaries.

(E) **Supplemental Development Standards**

In addition to the standards set forth in Section 5.3, when reviewing applications for conditional uses within the Forest Reserve District the DRB shall consider the following:

**1. Residential Uses.**

A. To maintain traditional land uses in the Forest Reserve District, single family dwellings and accessory structures to single family dwellings are ~~only permitted below~~ prohibited above an elevation of 1,500 feet mean sea level.

B. The DRB may only allow the placement of a single family dwelling ~~and/or accessory structures above~~ between 1,200 feet and 1,500 feet mean sea level, providing the following:

- a. The dwelling is located on a lot created prior to January 1, 2000;
- b. Site development, excluding forest management activities, associated with the placement of a house-site (e.g. driveway construction, site-grading) has occurred prior to January 1, 2000;
- ~~e. Proposed development, including the house-site location, does not exceed an elevation of 1,500' MSL; and,~~
- d. All proposed development and site improvements comply with all other standards of this section and Vermont ANR and Federal Regulations.

C. The DRB may only allow the placement of accessory structures to single family dwellings between 1,200 feet and 1,500 feet mean sea level, provided all proposed development and site improvements comply with all other standards of this section and Vermont ANR and Federal Regulations.

1.

2. **Placement of Structures.** Careful consideration shall be given to the location of proposed structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams and identified habitat and natural areas). The Board may limit or restrict the location of structures to ensure that development:
  - a. Is minimally visible from public roads and properties, and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point;
  - b. Is designed so that the height of any structures does not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure;
  - c. Is located down-grade of ridgelines and prominent knolls and is designed so that the height of proposed structures will not exceed the elevation of any adjacent ridgeline or knoll;
  - d. Will not adversely affect natural and scenic resources and fragile areas identified in the Elmore Town Plan, including wetlands, seeps, vernal pools, streams, critical habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal; and,
  - e. Does not involve the placement of any structure, including telecommunications facilities, within the Mount Elmore Telecommunications Exclusion Area depicted on the official zoning map.
  
7. **Clearing and Landscaping.** On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the facade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties. The DRB shall consider the location of proposed structures relative to existing vegetation, and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and, if necessary, replacement of designated trees during or after site development and the installation of all site improvements.
  
8. **Building Design.** The DRB shall consider the overall design of new structures (including the proposed scale, location and materials), and may impose conditions related to the overall design to minimize visual impacts, such as glare, contrasting colors and building materials, as viewed from public roads and properties.
  
9. **Erosion Control.** Development shall minimize the removal of native vegetation and grading, and shall comply with the erosion control standards set forth in Section 3.4. Clearing may be limited to one or more portions of the property to prevent erosion and sedimentation of streams; buffer areas may be required to protect streams, wetlands and other fragile features.
  
10. **Forest Management.** Forest management activities shall comply with all applicable state regulations and shall, as a minimum standard, comply with *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*, as revised, published by the Vermont ANR.
  
11. **Site Restoration.** Forest management activities designed as pre-development site preparation, including road and driveway construction, clearing and/or grading for house-sites and septic systems or related work, shall be reviewed by the Board under this bylaw. Where a landowner fails to submit pre-development plans for review, the Board may limit development to the non-impacted portion of the property and/or require the site to be restored or revegetated prior to development.
  
12. **Fire Protection.** Due to the remote location of higher elevation portions of the District, the following additional measures may be required to ensure adequate fire protection of new development:
  - a. Any conditional use, including a single family home, shall provide adequate water storage or distribution facilities for fire protection. If the conditional use is greater than one (1) road mile from an existing dry hydrant, or where the DRB otherwise determines that existing water sources are inadequate for firefighting, the DRB may require the developer to install or fund the installation of a dry hydrant and/or fire pond. To assist the DRB in determining the adequacy of fire protection facilities, the applicant shall consult with the Elmore Fire Department. Dry hydrants and/or fire ponds required under this section shall be installed and maintained by the applicant in accordance with ANR/EPA guidelines. All dry hydrants and

fire ponds must be installed to the specifications of the Elmore Fire Department. Fire ponds and dry hydrants shall be accessible for use in emergencies on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the State or National Wetland Inventory, unless approved by the Army Corps of Engineers and the Vermont Agency of Natural Resources. As an alternative to a dry hydrant and/or fire pond, the applicant may install a sprinkler system meeting the standards of the National Fire Protection Association (NFPA 13, 13R, or 13D, as applicable).

- b. In addition to any other driveway, road, or access standards established by the Town of Elmore, the DRB may require measures to ensure access for emergency vehicles. Such measures shall be developed in consultation with the Elmore Fire Department and other emergency response entities. Such measures may include, but are not limited to, construction of turnouts and pull-off areas, limitations on total length of new driveways, and/or similar measures.

13. **Viability of Productive Forestland.** Development shall be designed and located to minimize encroachment (e.g., the placement of buildings and the extension of roads, driveways and utilities) into presently undeveloped, forested areas. All feasible building sites should be considered and the development should be located as close to existing roads, other development and/or disturbed areas as practical. Conditions may be imposed as appropriate with regard to development envelopes, siting, road lengths and setbacks in order to maintain large areas of contiguous, undeveloped forest land; avoid unnecessary fragmentation of distinct timber stands; and to allow access for long-term forest management.

**Table 2.5**  
**UNDEVELOPED SHORELAND DISTRICT (SHR)**

<p>(A) <b>Purpose:</b> The purpose of the Undeveloped Shoreland District is to protect water quality and shoreland vegetation, minimize adverse impacts to the lakeshore environment, limit encroachments into public waters, and preserve both visual and physical access to and from the lakes and ponds. This district allows for compatible forms of development within 500 feet of Little Elmore Pond, Little Pond, and Hardwood Pond, as measured horizontally from the mean water level. The Lakeside Zone encompasses the first 100 feet back from the mean water level. Activities in the Lakeside Zone are subject to the Vegetative Protection Standards as defined herein. Permit requirements for new development, expansion, and redevelopment within the Undeveloped Shoreland District will vary depending on the conditions of the site present as of July 1, 2014.</p>
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**(B) Permitted Uses** (Reviewed in accordance with Section 8.1)

Accessory Structures (see Section 3.16)  
Accessory Use

**(C) Conditional Uses** (Reviewed in accordance with Section 5.3)

Accessory Structures (if conditional use applies; see Section 3.16)  
Public Beach/Park  
Public Campground  
Recreation/Outdoor  
Retaining Wall (along shoreline)

**(D) Dimensional Standards** (unless otherwise specified by use type):

Min. Lot Size:	5 acres per principal use	* See Section (E)2 below	
Minimum Lot Frontage:	250 ft.	Minimum Shoreline Setback:	100 ft.
Minimum Lot Depth:	250 ft.	Maximum Cleared Area Coverage:	40%*
Minimum Front Yard Setback:	20 ft.	*see Section (E)3below	
Minimum Side Yard Setback:	10 ft.	Maximum project site slope:	15%*
Maximum Building Height:	30 ft.	*see Section (E)4 below	
Minimum Shoreline Frontage:	400 ft.		
Maximum Lot Coverage:	3%*		

**(E) Supplemental District Standards:**

1. Structures permitted within the Lakeside Zone and access areas include stairways or handicap ramps not exceeding 4 feet in width; and, subject to conditional use review under Section 5.3, landings and/or decks (which are located on dry land) more than 4 feet in width but less than 6 ft. in width; only if it is found that such structures will not adversely impact water quality, significant natural or scenic features, or neighboring properties. Stairs, handicap ramps, walkways, and access paths within the Lakeside Zone greater than 4 ft. in width are subject to conditional use review under Section 5.3. Only one access path, stairway, handicap ramp, or walkway will be allowed in the Lakeside Zone. The maximum width of an access path, stairway, handicap ramp, or walkway shall be no greater than 6 ft. See Section 3.16
2. A proposal to increase impervious surfaces above 3%, but not greater than 20%, may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how Best Management Practices (BMPs) will be used to capture and infiltrate stormwater runoff.
3. A proposal to increase the cleared area above 40% may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how Best Management Practices (BMPs) will be used to capture and infiltrate stormwater runoff and maintain the ability of the shoreland to continue supporting particular wildlife species.
4. A proposal for new clearing or construction on a slope exceeding 15% may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how the slope will remain stable and how erosion and the impact to water quality will be minimal through the use of Best Management Practices (BMPs). An example of a BMP may include an additional two (2) feet of Lakeside Zone width for every 1% increase in slope over 15%.
5. Vegetation removal and clearing.
  - a. A vegetated buffer 100 feet in width shall be maintained along the length of the shorelines of Little Elmore Pond, Little Pond, and Hardwood Pond to prevent soil erosion and protect water quality.
  - b. One cleared area up to 100 square feet is only allowed between 25 and 100 feet of the mean water level in the Lakeside Zone, subject to Zoning Administrator approval.
  - c. New cleared areas up to 500 square feet are only allowed more than 100 feet from the mean water level upon conditional use from the Development Review Board.

- d. Tree removal and pruning is allowed in the Lakeside Zone as long as the Vegetation Protection Standards specified in Section (F) are met. Removal of dead, diseased, or dangerous trees and invasive species, nuisance plants, and noxious weeds is allowed subject to Zoning Administrator approval.
  - e. Removal of 250 square feet of vegetation less than 3 (three) feet in height, and at least 25 feet from the mean water level, is allowed as long as Vegetation Protection Standards specified in Section (F) are met and the duff layer is not removed.
6. Draining or filling of land along the shoreline, including associated wetlands, shall be allowed only in accordance with applicable state and federal regulations. The dredging of land adjacent to the shoreline is prohibited. The installation of permanent docks and retaining walls shall be allowed only in accordance with applicable state and federal regulations.
  7. Fuel storage is allowed in the Undeveloped Shoreland District only for normal residential use.
  8. Conditional use review standards under Section 5.3 must be followed for Conditional Uses, or as otherwise specific under Article III and/or Article IV.
  9. Any existing development and nonconforming uses and structures will be subject to the standards found in Table 2.6(G)

**(F) Vegetation Protection Standards:**

1. Within the Lakeside Zone, tree coverage shall be managed in 25×25 foot plots. The trees within each plot shall be given points according to their diameter at 4.5 feet, referred to as diameter at breast height (DBH). Within the Lakeside Zone, a 25 foot by 25 foot plot must meet the following:
  - A minimum number of 12 total "points" worth of trees
  - At least five saplings (trees less than 2" DBH) in the same area; and
  - No removal of duff layer.
  - No removal of groundcover except as specified in Section (E)5.

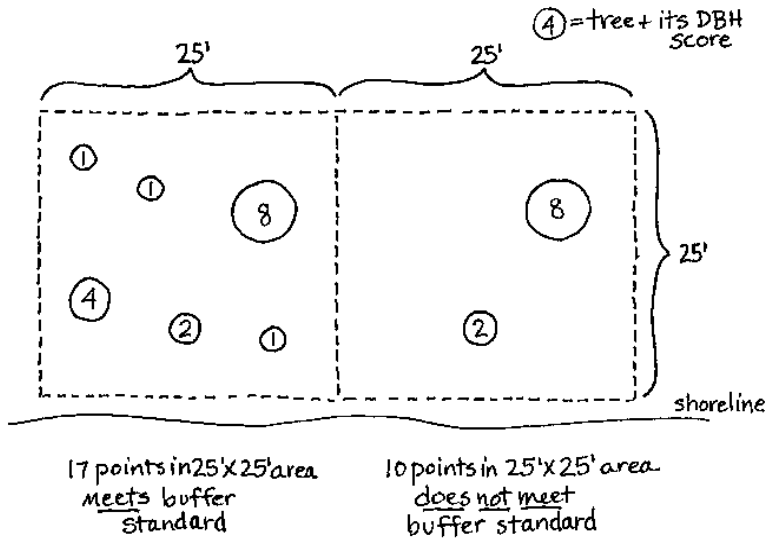
Trees and saplings may be cut as long as the sum of the scores the above standards are maintained.

<b>Vegetation Protection Grid and Point System</b>	
<b>Diameter (DBH)</b>	<b>No. of Points</b>
Under 2"	0
2" to less than 4"	1
4" to less than 8"	2
8" to less than 12"	4
12" and greater	8

2. All cutting and removal permitted under this section shall be conducted so as to:
  - a. Prevent damage to surrounding trees and saplings;
  - b. Minimize damage to duff layer;
  - c. Prevent soil erosion and sedimentation to the waterbody; and
  - d. Leave all stumps intact.
3. Property owners shall not be required to obtain new trees to fulfill the 12-point tree coverage requirement on land within the Lakeside Zone legally in existence on July 1, 2014. However, property owners shall not decrease the point value of any grid section that does not meet the required 12-point score.

4. Property owners shall replant dead, diseased, or damaged trees within 25 feet of the mean water level.

**Grid and Point Example**



5. In any enforcement action for removal of trees or saplings in violation of this section, the burden of proof shall be on the property owner to show that the removal of trees or saplings pursuant to this section did not bring the sum of the scores of the remaining trees and saplings in that segment below 12 points.
6. Proof that the vegetation removal complied with Vegetation Protection Standards provided in this section shall include, but not be limited to the following:
  - a. Photographs of the property which clearly show the trees or saplings; and
  - b. A sketch of the property showing the location and point scores of the trees and saplings that will remain on the property.
7. In addition to any fine or injunctive order levied against the property owner, removal of trees or saplings in violation of this section shall require implementation of a shoreland restoration plan designed by a qualified professional and approved by the Zoning Administrator that addresses the following:
  - a. The number, size, and species of trees and saplings removed in violation of the regulation;
  - b. A re-planting schedule including site conditions, planting time and a guarantee that at least 80% of the plants will survive the first year. If more than 20% of the new plants die within the first year, they shall be replaced.
  - c. A site restoration map of the cleared area drawn to scale that includes structures, roads, and the location of existing trees, trees that were removed and proposed replacement trees.

**Table 2.6  
DEVELOPED SHORELAND DISTRICT (DSHR)**

(A) **Purpose:** The purpose of the Developed Shoreland District is to protect water quality and shoreland vegetation, minimize adverse impacts to the lakeshore environment, limit encroachments into public waters, and preserve both visual and physical access to and from Lake Elmore, including allowing compatible forms of development and expansion of existing camps and existing structures within 500 feet of the Lake, as measured horizontally from the mean water level. The Lakeside Zone encompasses the first 100 feet back from the mean water level. Activities in the Lakeside Zone are subject to the Vegetative Protection Standards as defined herein. Permit requirements for new development, expansion, and redevelopment within the Developed Shoreland District will vary depending on the conditions of the site present as of July 1, 2014.

(B) **Permitted Uses** (Reviewed in accordance with Section 8.1)

Accessory Dwelling (see Section 4.1 & subsection (E))  
 Accessory Structures (see Section 3.16)  
 Accessory Use  
 Agriculture (see Section 6.8)  
 Group Home (8 or fewer residents)  
 Home Occupation (see Section 4.5)  
 Single Family Dwelling

(C) **Conditional Uses** (Reviewed in accordance with Section 5.3)

Accessory Structures (if conditional use applies; see Section 3.16)  
 Public Beach/Park  
 Public Campground  
 Recreation/Outdoor  
 Retaining Wall (along shoreline)  
 Enlargement, expansion, reconstruction, modification, or relocation of a nonconforming use or structure (see Section XX)

**(D) Dimensional Standards (unless otherwise specified by use type):**

Min. Lot Size:	1 acre per principal use	Maximum Lot Coverage:	10%*
Minimum Lot Frontage:	150 ft.	*see Section (E)2 below	
Minimum Lot Depth:	250 ft.	Minimum Lake Setback:	100 ft.
Minimum Front Yard Setback:	20 ft.	Maximum Cleared Area Coverage:	40%*
Minimum Side Yard Setback:	10 ft.	*see Section (E)3 below	
Maximum Building Height:	30 ft.	Maximum Project Site Slope:	15%*
Minimum Lake Frontage:	125 ft.	*see Section (E)4 below	

**(E) Supplemental District Standards:**

1. Structures permitted within the Lakeside Zone and access areas include stairways and handicap ramps not exceeding 4 feet in width and, subject to conditional use review under Section 5.3, landings and/or decks (which are located on dry land) more than 4 feet in width but less than 6 ft. in width and retaining walls only if it is found that such structures will not adversely impact water quality, significant natural or scenic features, or neighboring properties. Stairs, handicap ramps, walkways, and access paths within the Lakeside Zone greater than 4 ft. in width are subject to conditional use review under Section 5.3. Only one access path, stairway, handicap ramp, or walkway will be allowed in the Lakeside Zone. The maximum width of an access path, stairway, handicap ramp, or walkway shall be no greater than 6 ft. See Section 3.16.
2. A proposal to increase impervious surfaces above 10%, but not greater than 20%, may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how Best Management Practices (BMPs) will be used to capture and infiltrate stormwater runoff.
3. A proposal to increase the cleared area above 40% may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how Best Management Practices (BMPs) will be used to capture and infiltrate stormwater runoff and maintain the ability of the shoreland to continue supporting particular wildlife species.
4. A proposal for new clearing or construction on a slope exceeding 15% may be permitted by the Development Review Board only with an approved mitigation plan demonstrating how the slope will remain stable and how erosion and the impact to water quality will be minimal through the use of

Best Management Practices (BMPs). An example of a BMP may include an additional two (2) feet of Lakeside Zone width for every 1% increase in slope over 15%.

5. Vegetation removal and clearing.
  - a. A vegetated buffer 100 feet in width measured horizontally from the mean water line shall be maintained along the length of the shoreline of Lake Elmore to prevent soil erosion and protect water quality. This 100 foot buffer shall be referred to as the Lakeside Zone.
  - b. One cleared area up to 100 square feet is only allowed between 25 and 100 feet of the mean water level in the Lakeside Zone, subject to Zoning Administrator approval.
  - c. New cleared areas up to 500 square feet are only allowed more than 100 feet from the mean water level upon conditional use from the Development Review Board.
  - d. Tree removal and pruning is allowed in the Lakeside Zone as long as the Vegetation Protection Standards specified in Section (F) are met. Removal of dead, diseased, or dangerous trees and invasive species, nuisance plants, and noxious weeds is allowed subject to Zoning Administrator approval.
  - e. Removal of 250 square feet of vegetation less than 3 (three) feet in height, and at least 25 feet from the mean water level, is allowed as long as Vegetation Protection Standards specified in Section (F) are met and the duff layer is not removed.
6. Notwithstanding subsection (2) above, the Development Review board may allow encroachment into the 100 feet buffer area (Lakeside Zone) as a conditional use under Section 5.3 where encroachment is required to modify or replace a septic disposal system located on the parcel. In allowing such encroachments, the Board shall ensure that:
  - a. No other options are available on the parcel to accommodate the new or modified septic system;
  - b. That the existing system poses a threat to public health and water quality unless the system is modified or replaced;
  - c. The total area of encroachment is the minimum necessary to accommodate the modification or replacement; and
  - d. The modification and/or replacement of the septic system is necessary to correct a system that has failed or is otherwise inadequate to serve the current use of the property, and is not designed to accommodate the expansion or enlargement of the existing use.
7. Draining or filling of land along the shoreline, including associated wetlands, shall be allowed only in accordance with applicable state and federal regulations. The dredging of land adjacent to the shoreline is prohibited. The installation of permanent docks and retaining walls shall be allowed only in accordance with applicable state and federal regulations.
8. Fuel storage is allowed in the Developed Shoreland District only for normal residential use.
9. Conditional use review standards under Section 5.3 must be followed for Conditional Uses, or as otherwise specific under Article III and/or Article IV.
10. Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling may only be allowed by the Development Review Board as a Conditional Use under Section 5.3.

#### **(F) Vegetation Protection Standards:**

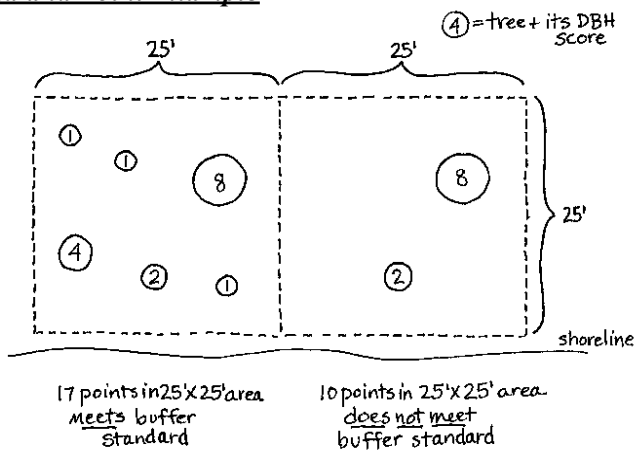
1. Within the Lakeside Zone, tree coverage shall be managed in 25×25 foot plots. The trees within each plot shall be given points according to their diameter at 4.5 feet, referred to as diameter at breast height (DBH). Within the Lakeside Zone, a 25 foot by 25 foot plot must meet the following:
  - A minimum number of 12 total "points" worth of trees
  - At least five saplings (trees less than 2" DBH) in the same area; and
  - No removal of duff layer.
  - No removal of groundcover except as specified in Section (E)5.

Trees and saplings may be cut as long as the sum of the scores the above standards are maintained.

Vegetation Protection Grid and Point System	
Diameter (DBH)	No. of Points
Under 2"	0
2" to less than 4"	1
4" to less than 8"	2
8" to less than 12"	4
12" and greater	8

2. All cutting and removal permitted under this section shall be conducted so as to:
  - a. Prevent damage to surrounding trees and saplings,
  - b. Minimize damage to duff layer,
  - c. Prevent soil erosion and sedimentation to the waterbody, and
  - d. Leave all stumps intact.
3. Property owners shall not be required to obtain new trees to fulfill the 12-point tree coverage requirement on land within the Lakeside Zone legally in existence on July 1, 2014. However, property owners shall not decrease the point value of any grid section that does not meet the required 12-point score.
4. Property owners shall replant dead, diseased, or damaged trees within 25 feet of the mean water level.

**Grid and Point Example**



5. In any enforcement action for removal of trees or saplings in violation of this section, the burden of proof shall be on the property owner showing that the removal of trees or saplings pursuant to this section did not bring the sum of the scores of the remaining trees and saplings in that segment below 12 points.
6. Proof that the removal complied with Vegetation Protection Standards provided in this section shall include, but not be limited to the following:
  - a. Photographs of the property which clearly show the trees or saplings; and
  - b. A sketch of the property showing the location and point scores of the trees and saplings that

will remain on the property.

7. In addition to any fine or injunctive order levied against the property owner, removal of trees or saplings in violation of this section shall require implementation of a shoreland restoration plan designed by a qualified professional and approved by the Zoning Administrator that addresses the following:
  - a. The number, size, and species of trees and saplings removed in violation of the regulation;
  - b. A re-planting schedule including site conditions, planting time and a guarantee that at least 80% of the plants will survive the first year. If more than 20% of the new plants die within the first year, they shall be replaced.
  - c. A site restoration map of the cleared area drawn to scale that includes structures, roads, and the location of existing trees, trees that were removed, and proposed replacement trees.

**(G) Existing Development, Nonconforming Uses and Structures**

1. Any structure or use of land legally in existence on July 1, 2014 that does not meet the requirements of these regulations shall be considered nonconforming. In addition to the standards found in Section 3.8, nonconforming uses and structures within the Developed Shoreland District are subject to the following conditions:
  - a. A nonconforming structure may undergo normal maintenance and repair provided that such action does not increase the degree of nonconformity.
  - b. A nonconforming structure may be enlarged, extended, reconstructed, expanded, modified, or relocated only with the conditional use approval of the Development Review Board. The Development Review Board must determine that the enlargement, extension, expansion, modification or relocation does not increase the degree of nonconformity, or compensates for the loss of vegetation or increased impervious surface area and meets all other applicable requirements of these regulations. See Figure A.

**Figure A. Expansion of a Nonconforming Structure**

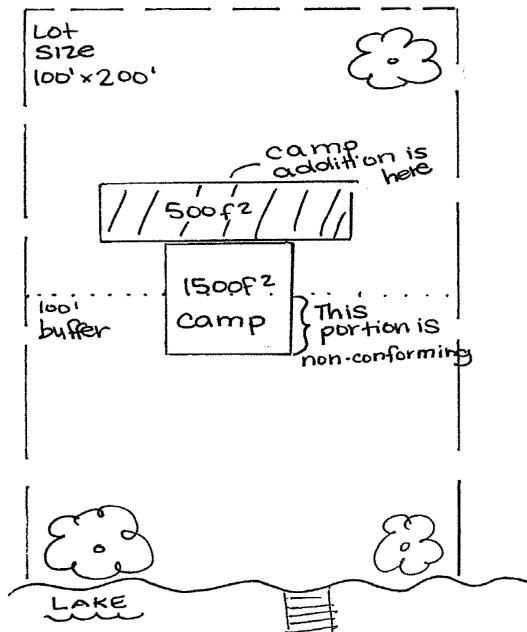
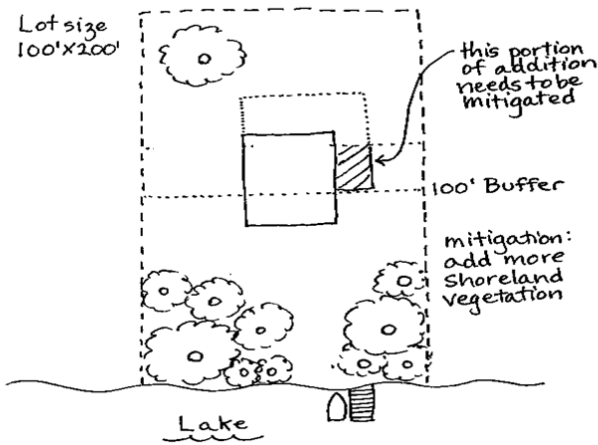


Figure A illustrates impervious surface coverage of 10%, computed as follows:  
Assume that the lot size is 100 ft. x 200 ft. = 20,000 sq. ft.  
The 1,500 sq. ft. camp + 500 sq. ft. addition = 1600 sq. ft.  
 $1600 \div 20,000 = 8\%$  Impervious Surface.

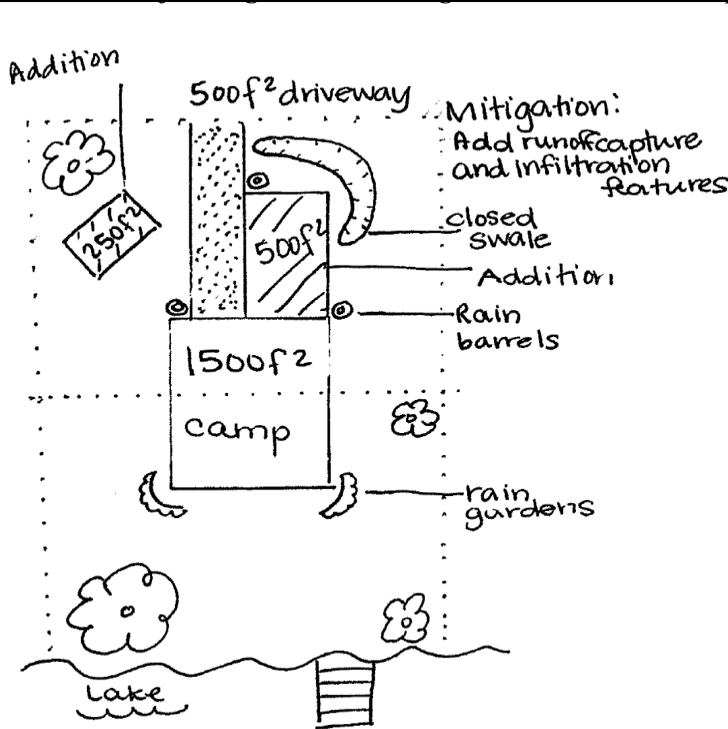
c. Where the expansion of a nonconforming structure is permitted, the Development Review Board may require the applicant to return any mowed or cleared areas to a naturally vegetated state with supplemental planting of appropriate native vegetation in order to meet or exceed the Vegetation Protection Standards provided in Section 2.6(F) above. See also Figure B.

**Figure B. Nonconforming Structure Mitigation – Adding Vegetation**



- d. A proposed expansion to a nonconforming structure resulting in more than 10% impervious surface coverage, but not greater than 20% impervious surface coverage, may be permitted by the Development Review Board with an approved mitigation plan demonstrating Best Management Practices (BMPs) that includes runoff capture and infiltration structures to prevent stormwater runoff from reaching the lake. See Figure C.

**Figure C. Nonconforming Structure Mitigation – Stormwater Capture and Infiltration**



10% impervious coverage exceeded with two additions.

- e. No part of the Lakeside Zone vegetation shall be forfeited to replace lawn areas lost as a result of the expansion of a nonconforming structure.
- f. Cleared openings and lawns legally in existence on July 1, 2014, may be maintained. However, areas that were once fields, lawns or cleared openings but have reverted to primarily shrubs, trees, or other woody vegetation are regulated under the Vegetation Protection Standards and clearing standards under these regulations.
- g. A nonconforming structure can be moved provided that such action does not increase the degree of noncompliance and so long as disturbed areas are restored to a naturally vegetated state with supplemental planting as outlined in the Vegetation Protection Standards provided in Section 2.6(F).



**Table 2.7  
FLOOD HAZARD AREA OVERLAY DISTRICT (FLD)**

(A) **Purpose:** The purpose of the Flood Hazard Area Overlay District is to

- \* Implement the goals, policies, and recommendations in the current municipal plan
- \* Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- \* Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor.
- \* Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Elmore, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available

(B) Permitted Uses (Reviewed in accordance with Section 8.1)  
As defined in the Elmore Flood Hazard Regulations, as most recently amended.

(C) Conditional Uses (Reviewed in accordance with Section 5.3)  
As defined in the Elmore Flood Hazard Regulations, as most recently amended.  
The following table summarizes permitted and conditional uses in the Elmore Flood Hazard Regulations. The Elmore Flood Hazard Regulations shall control in the event of conflicts with this Section.

#	Activity	Hazard Zone		
		Special Flood Hazard Area	Floodway	River Corridors
	<b>P</b> Permitted <b>C</b> Conditional Use Review <b>X</b> Prohibited <b>A</b> Exempted			
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C	C	C
4	Small Accessory Structures	X	X	C
5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
8	Fill as needed to elevate existing structures	C	C	C
9	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance – Existing road	A	A	A
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P

18	Existing open space, recreation	A	A	A
19	Forestry	A	A	A
20	Agriculture	A	A	A

(D) **Dimensional Standards**

Standards as set forth for the underlying district unless otherwise specified under Article V and/or the Elmore Flood Hazard Regulations, as most recently amended.

(E) **District Standards:**

All development in the Flood Hazard Overlay shall comply with the Elmore Flood Hazard Regulations, as most recently amended.

**Table 2.8**  
**Remote Area Overlay (RAO)**

(A) **Purpose:** The Remote Area Overlay (RAO) District consists largely of forested areas located a substantial distance from existing public roads and public services. The purpose of the RAO is (1) to

maintain existing land uses in areas far from existing public roads in a manner that preserves fragile features, including steep slopes, soils unsuitable for on-site septic disposal, large areas of intact wildlife habitat, headwater streams and associated water supplies, and scenic resources; (2) to prevent undue financial burden on Town services including emergency services, utilities, and road maintenance, by discouraging scattered development in areas with poor or limited access; (3) to protect the health, welfare, and safety of Town residents by limiting development in areas characterized by poor site conditions and the lack of public access or services; (4) to encourage traditional land uses, such as forestry, passive outdoor recreation, and wildlife management, to continue in the district while limiting incompatible uses; and (5) to minimize fragmentation of forestlands and wildlife habitat. Development within the RAO shall be subject to additional standards to provide adequate access for emergency vehicles and to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors, and forestlands.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 5.3)*  
*with Section 8.1)*

All other permitted and conditional uses in the underlying zoning district

(C) **Conditional Uses:** *(Reviewed in accordance*

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: 5 acre per principal use  
Minimum Lot Frontage: 200 ft.

Maximum Height: 35 ft.  
Maximum Lot Coverage: 3%  
Maximum Density for Multi-Family Dwelling: 1 unit per minimum lot size for district

## **(E) Supplemental Development Standards**

In addition to the standards set forth in Section 5.3, when reviewing applications for conditional uses within the RAO, the DRB shall consider the following:

1. **Placement of Structures.** Careful consideration shall be given to the location of proposed structures relative to site conditions, existing vegetation, and the location of fragile features (including, but not limited to, steep slopes, streams, and identified habitat and natural areas). The Board may limit or restrict the location of structures to ensure that development:
  - a. Is minimally visible from public roads and properties and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point;
  - b. Is designed so that the height of any structures does not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure;
  - c. Is located down-grade of ridgelines and prominent knolls and is designed so that the height of proposed structures will not exceed the elevation of any adjacent ridgeline;
  - d. Will not adversely affect natural and scenic resources and fragile areas identified in the Elmore Town Plan, including wetlands, streams, significant habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal; and,
2. **Clearing and Landscaping.** On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the facade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties. The DRB shall consider the location of proposed structures relative to existing vegetation and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and, if necessary, replacement of designated trees during or after site development and the installation of all site improvements.
3. **Building Design.** The DRB shall consider the overall design of new structures (including the proposed scale, location, and materials), and may impose conditions related to the overall design to minimize visual impacts, such as glare, contrasting colors, and building materials, as viewed from public roads and properties.
4. **Erosion Control.** Development shall minimize the removal of native vegetation and grading and shall comply with the erosion control standards set forth in Section 3.4. Clearing may be limited to one or more portions of the property to prevent erosion and sedimentation of streams; buffer areas may be required to protect streams, wetlands, and other fragile features.
5. **Forest Management.** Forest management activities shall comply with all applicable State regulations and shall, as a minimum standard, comply with *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*, as revised, published by the Vermont Department of Forests, Parks & Recreation.
6. **Site Restoration.** Forest management activities designed as pre-development site preparation, including road and driveway construction, clearing, and/or grading for house-sites and septic systems or related work, shall be reviewed by the DRB under this bylaw. Where a landowner fails to submit pre-development plans for review, the DRB may limit development to the non-impacted portion of the property and/or require the site to be restored or re-vegetated prior to development.
7. **Fire Protection.** Due to the remote location of higher elevation portions of the District, the following additional measures may be required to ensure adequate fire protection of new development:

- a. Any conditional use, including a single family home, shall provide adequate water storage or distribution facilities for fire protection. If the conditional use is greater than one (1) road mile from an existing dry hydrant, or where the DRB otherwise determines that existing water sources are inadequate for firefighting, the DRB may require the developer to install or fund the installation of a dry hydrant and/or fire pond. To assist the DRB in determining the adequacy of fire protection facilities, the applicant shall consult with the Elmore Fire Department. Dry hydrants and/or fire ponds required under this section shall be installed and maintained by the applicant. All dry hydrants and fire ponds must be installed to the specifications of the Elmore Fire Department. Fire ponds and dry hydrants shall be accessible for use in emergencies on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the State or National Wetland Inventory, unless approved by the Army Corps of Engineers and the Vermont Agency of Natural Resources. As an alternative to a dry hydrant and/or fire pond, the applicant may install a sprinkler system meeting the standards of the National Fire Protection Association (NFPA 13, 13R, or 13D, as applicable).
  - b. In addition to any other driveway, road, or access standards established by the Town of Elmore, the DRB may require measures to ensure access for emergency vehicles. Such measures shall be developed in consultation with the Elmore Fire Department and other emergency response entities. Such measures may include, but are not limited to, construction of turnouts and pull-off areas, limitations on total length of new driveways, and/or similar measures.
- 8. Existing Structures.** Alterations and/or additions to structures in existence as of July 1, 2015 shall not require conditional use review, provided all of the following criteria are met:
- a. The structure is a single family home or accessory structure to a single family home, and
  - b. The alteration or addition does not expand the total floor area of the structure by greater than 50% of the floor area in existence as of July 1, 2015, and
  - c. The alteration or addition does not increase the height of the structure in existence as of July 1, 2015.
- 9. Viability of Productive Forestland.** Development shall be designed and located to minimize encroachment (e.g., the placement of buildings and the extension of roads, driveways and utilities) into presently undeveloped, forested areas. All feasible building sites should be considered and the development should be located as close to existing roads, other development and/or disturbed areas as practical. Conditions may be imposed as appropriate with regard to development envelopes, siting, road lengths and setbacks in order to maintain large areas of contiguous, undeveloped forest land; avoid unnecessary fragmentation of distinct timber stands; and to allow access for long-term forest management.

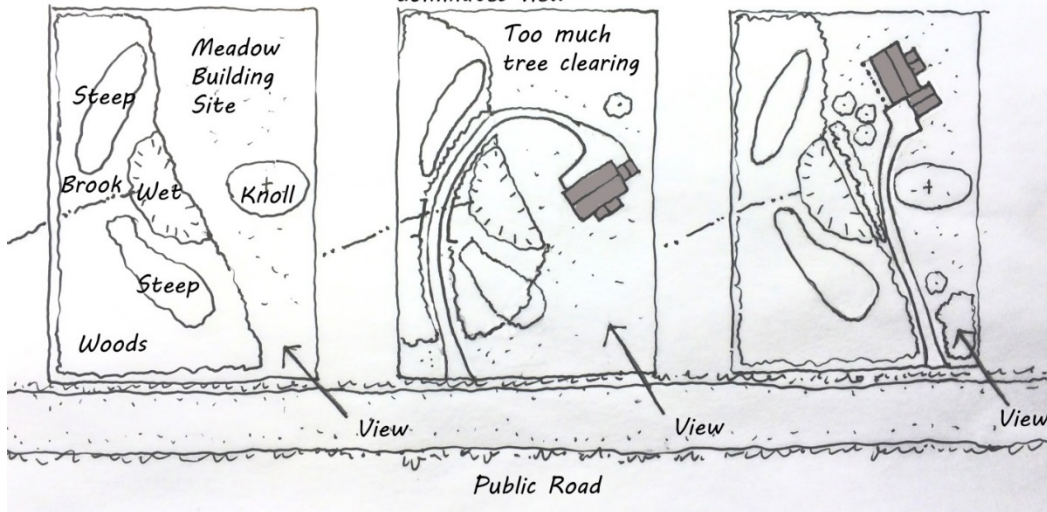
Pre-development  
Rural Area L at  
an above 1 1/2 miles

New Home  
(Undesirable)

Driveway impacts woods,  
wetland, stream,  
steep slopes  
Building site on knoll  
dominates view

New Home  
(Preferred)

Shorter driveway avoids  
impacts, wetland protected  
Siting of house is compatible  
with landscape surroundings



## ARTICLE III. GENERAL PROVISIONS

### Section 3.0 Applicability

The following general standards, including provisions required under the Act [§4406, §4409], apply to all uses and structures as specified within the Town of Elmore.

### Section 3.1 Access, Driveway, Roads, and Frontage Requirements

- A. In accordance with the Act [§4412(3)], no land development may be permitted on lots in existence prior to the effective date of this bylaw which do not have either frontage on a maintained public road [Class I, II, III, state] or public waters, or with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. In granting or denying approval, the DRB shall consider intended use, safety, traffic, lot configuration and road and site conditions.
- B. No lot shall be served by more than one (1) access road or driveway unless otherwise permitted under conditional use review (Section 5.3) or the Subdivision Review (Article VI). Accesses (curb cuts) are to be installed in accordance with municipal and/or state regulations, and shall not be permitted to extend along the length of road frontage. For parcels having direct access to more than one public road, access to the property may be limited to a side street or secondary road as a condition of approval under Section 5.3.
- C. In appropriate instances, including the presence of compatible adjacent uses and/or areas characterized by congestion and unsafe turning movements, provision for shared access between adjoining properties may be required as a condition of subdivision review (Article VI) and/or conditional use review under Section 5.3. Requirements for shared access shall be made either at the time of conditional use or subdivision approval if similar provision has been made on contiguous parcels, or may be contingent upon future development of neighboring properties.
- D. In all districts, the minimum setback for any new road or driveway shall be twenty (20) feet from the closest adjacent property boundary.
- E. A road or driveway serving multiple lots shall be designed to minimize the shared portion.
  - 1.
- F. **Design Standards for Driveways:** All driveways shall be designed and constructed in accordance with the following:
  - a. **Right-of-Way:** If the driveway crosses another lot, the minimum right-of-way for the driveway shall be thirty (30) feet. Right-of-way widths of fifty (50) feet or greater are encouraged where lots may be subdivided in the future, as failure to reserve sufficient right-of-way may preclude further subdivision in accordance with Section 3.1(E) below.
  - b. **Width:** The travel portion of a driveway serving a single lot shall be at least eight (8) feet in width. The travel portion of a driveway serving 2-3 lots, or multifamily dwelling units on a single lot, shall be at least twelve (12) feet in width.
  - c. **Base:** All driveways shall be constructed on a subbase capable of supporting a 40,000 lbs, two axle vehicle.
  - d. **Grade:** The maximum gradient of a driveway shall not exceed a maximum sustained 10%, with average grade not exceeding 12% within any 50 foot segment. Driveway entrances shall be constructed with no more than three (3) percent grade away from the

public highway for a distance of at least twenty (20) feet. (also see Section 3.4)

- e. **Length:** Any new driveway greater than 1,500 feet in length shall require conditional use review in accordance with Section 5.3 of these Regulations.
- f. **Turn arounds:** Driveways in excess of five hundred (500) feet in length shall terminate with a turnout at least 10' x 30' in size.
- g. Driveways are to be located at least one hundred (100) feet from a street or highway right-of-way intersection for all uses, except one-and two-family residential uses, which shall be at least fifty (50) feet from the same.

G. **Design Standards for New & Improved Roads:** All roads serving proposed development shall be designed in accordance with the Elmore road policy or ordinance adopted and administered by the Selectboard, and shall generally conform to the dimensional and geometric design standards for local roads and streets contained within the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, dated October, 1997, or as subsequently amended. Minimum design standards include the following:

- a. **Right-of-Way:** Rights-of-way for all roads shall be a minimum of fifty (50) feet in width. The DRB may reduce the minimum right-of-way width within the Village District or within a Conservation Subdivision (PUD) in order to facilitate a connected street network and/or minimize impacts to natural resources identified in Section 7.3.
- b. **Width:** To ensure adequate safety and service, the width of travel lanes and shoulders shall be based on average daily traffic (ADT) and design (anticipated posted) speeds shown in Table 4.1, and the following:
  - i. Lower design and posted speeds may be considered to avoid and/or minimize impacts to historic, architectural, scenic, natural or other resources; to avoid excess costs of construction; or to better comply with the town plan.
  - ii. Wider travel lanes and/or shoulders may be required as appropriate to road function (i.e., for collector and arterial roads), or to safely accommodate shared use by bicycles.

Table 4.1 Minimum Lane and Shoulder Widths for Rural Roads							
Design Volume (ADT)	0-25	25-50	50-100	100-400	400-1500	1500-2000	2000+
Design Speed (mph)	Width of Lane/Shoulder (ft)						
25	7/0	8/0	9/0	9/2	9/2	10/3	11/3
30	7/0	8/0	9/0	9/2	9/2	10/3	11/3
35	7/0	8/0	9/0	9/2	9/2	10/3	11/3
40	7/0	8/0	9/2	9/2	9/2	10/3	11/3
45	---	---	9/2	9/2	9/2	10/3	11/3
50	---	---	9/2	9/2	10/2	10/3	11/3

Source: Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, October 1997.

- c. **Dead ends and Turn Arounds:** Dead end roads are specifically discouraged. No dead end road shall be permitted without a suitable turn around at its terminus. This may consist of a cul-de-sac with a radius of not less than thirty-five (35) feet, or a "T" or other configuration suitable to topography and adequate for emergency vehicles to turn around

efficiently. Dead end roads in excess of eighteen hundred (1800) feet in length are prohibited. Roads in excess of eighteen hundred (1800) feet must be served by at least two (2) access points onto another road (i.e. be a loop road or thru-road), or be designed to continue to adjacent property in accordance with Subsection (G) such that a second access point may be provided in the future.

- d. **Road Construction Standards:** Road construction, including specifications relating to the crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's Standard A-76, as amended.
  - e. **Grade and Topography:** Roads shall logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads. Road grades should be consistent with local terrain. The maximum gradient of any road shall not exceed a maximum sustained grade of 10%, with average grade not exceeding 12% within any 50 foot segment. Road entrances shall be constructed with no more than three (3) percent grade away from the public highway for a distance of at least twenty (20) feet.
  - f. **Length:** Any new road greater than 1,500 feet in length shall require conditional use review in accordance with Section 5.3 of these Regulations
- H. Subdivisions and Planned Unit Development must be accessible by dry land access that is located outside of the special flood hazard area.
- I. **Conditional Use Review:** Conditional Use Review in accordance with Section 5.3 of these Regulations is required for either of the following:
- a. Any new driveway or road greater than 1,500 feet in length, or
  - b. At the request of the applicant, in order to allow limited stretches of grade in excess of the maximum outlined above only, where any practical alternative would result in an undue adverse impact on natural resources (for example, require excessive clearing or cut-and-fill).
- J. **Conditional Use Review Standards:** In addition to the Conditional Use Standards found in Section 5.3, in granting approval for a driveway or road under Subsection (G) above, the DRB shall require the following:
- a. **Measures to ensure access for emergency vehicles:** Such measures shall be developed in consultation with the Elmore Fire Department and other emergency response entities. Such measures may include, but are not limited to, construction of turnouts and pull-off areas, installation of fire ponds and dry hydrants, and/or similar measures.
  - b. **Measures to reduce erosion:** Such measures shall be designed by a licensed professional engineer. Measures to reduce erosion may include, but are not limited to, use of stone lined ditches and check dams, gabion walls or timber cribs at areas perpendicular to the slope, paving of the travel surface, vegetative buffers along surface water bodies within one-hundred (100) feet of the proposed steep grade, and/or similar measures.
  - c. **All driveways and/or roads with a gradient of 10% or greater** shall be designed to meet all local access standards, Vermont Water Quality Standards and the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways, as revised. If the local standards and B-71 standards are in conflict, the stricter shall apply.
  - d. **Measures to minimize impacts to natural resources:** The driveway or road shall be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of agricultural land, forest land, and open space; and to avoid adverse impacts to natural, cultural and scenic features, as defined in Section 7.3 of these regulations. Conditions may include limiting the length of the driveway/

shared driveway, requiring relocation to other less sensitive areas of the parcel or limiting the scale (number of lots served) of the driveway

- e. ***Stormwater Management:*** If the new driveway or road and associated development will increase the amount of impervious surface on a lot by more than one half (0.5) acres, as measured cumulatively over any 5-year period, the applicant shall comply with Section 5.4(E) of these regulations (stormwater management).

### **Section 3.2 Conversions and Changes of Use**

Changes or conversions in the use of land and/or an existing structure are subject to the provisions of this bylaw as follows:

- A. The proposed use shall be subject to all the requirements of this bylaw pertaining to such use, including but not limited to any district, specific use or general standards, as well as other applicable municipal, state and federal regulations.
- B. An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure conforms to the lot size, setbacks, parking and other requirements applicable to the proposed use. For accessory structures located within the Flood Hazard Overlay District, conversion to a principal use may also necessitate that the structure is brought up to compliance with the Elmore Flood Hazard Regulations, as most recently amended. .

- C. A conversion or change of use from one permitted to another permitted use which involves the creation of new floor space or changes in minimum lot size and/or dimensional requirements will require a zoning permit to be issued by the Zoning Administrator under Section 8.1.
- D. A conversion or change of use from a permitted to a conditional use, or a conditional use to a different conditional use, may be approved by the DRB subject to conditional use review under Section 5.3. Changes or conversions involving non-conforming uses and/or non-complying structures also are subject to and will be reviewed under Section 3.8.
- E. A structure that experiences “substantial damage” of any origin that is located within the Special Flood Hazard Area is required to meet the substantial improvement and proposed new construction provisions of the Elmore Flood Hazard Regulations, as most recently amended.

### **Section 3.3 Equal Treatment of Housing**

In accordance with the Act [§4412(1)]:

- A. A mobile home shall be considered a single family dwelling, and shall meet the same zoning requirements applicable to single family dwellings, except when allowed as a temporary structure under Section 3.14 of this bylaw. No provision of this bylaw shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.
- B. Provisions for mobile home parks are established in Section 4.7 of this bylaw; provisions for accessory dwellings are established in Section 4.1 of this bylaw; provisions for multi-family dwellings are established in Article II of this bylaw.

### **Section 3.4 Erosion Control & Development on Steep Slopes**

- A. All site work or development involving the mechanical excavation, filling and/or regrading (e.g. using bulldozer, backhoe, grader or similar heavy equipment) of land characterized by a slope gradient in excess of 10% on any parcel shall conform to all ANR/EPA water quality regulations and be subject to review and approval by the DRB under conditional use review (Section 5.3). DRB approval shall be contingent upon the submittal of an adequate erosion and sedimentation control plan. Such plan shall be prepared by a professional engineer licensed by the State of Vermont, and shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post-construction).
  - a. In addition to the supplemental review above, if the area of land containing slopes in excess of 10% is within five hundred (500) feet of any river, stream or wetland protected under Section 3.12, the required fifty (50) foot vegetated buffer strip shall be expanded to include an additional two (2) feet for every one (1) percent of slope. For example, if development occurs on a 11% slope, a buffer of 72 feet in width shall be required [50 feet minimum plus 32 feet (or 11x2) in additional width].
- B. In addition to the requirements of subsection (A), all driveways with a gradient of 10% or greater shall be designed to meet all local access standards, Vermont Water Quality Standards and the Vermont Agency of Transportation’s B-71 Standards for Commercial and Residential Driveways, as revised. If the local standards and B-71 standards are in conflict, the stricter shall apply.
- C. Development including but not limited to driveways, roads, utilities, and building envelopes, generally shall not take place on slope gradients in excess of 15%. Subject to Conditional Use Review, the DRB may approve limited site improvements necessary to facilitate development on

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contiguous land less than 20% gradient, if the applicant can demonstrate that there is no practical alternative, or practical alternatives would result in greater adverse impacts to natural resources (for example, excessive tree removal or cut and fill)

## Section 3.5 Existing Small Lots

A. In accordance with the Act [§4412(7)], any lot in individual and non-affiliated ownership from surrounding properties in existence on the effective date of this bylaw may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this bylaw, even though not conforming to minimum lot size requirements. The specific standards for development of existing small lots shall be determined based on the District in which the lot is located.

### ***B. Rural-East, Rural-West, Forest, Developed Shoreland and Undeveloped Shoreland District***

1. Pre-existing, undeveloped small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of this bylaw, unless all the standards outlined in Section 2 below are met.
2. Undeveloped small in affiliated or common ownership shall not be deemed merged, and may be separately conveyed, if:
  1. The lots are conveyed in their pre-existing, nonconforming configuration; and
  2. On the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system; and
  3. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
  4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 VSA Chapter 64.
3. Pursuant to Section B(1) and B(2) above, the minimum lot size requirement for a lot of record created prior to January 1, 2000 may vary from the minimum lot size requirement for a lot of record created after January 1, 2000. The merger requirement for existing small lots set forth in subsection (B) shall not require the merger of a lot of record meeting the minimum lot size for the date on which the lot was created providing:
  1. A subdivision plat or deed documenting the creation of said lots was duly recorded in Elmore Land Records; and,
  2. The lot must have been created in compliance with all applicable local and state regulations in effect at the time the plat and/or deed was recorded.
4. Development of lots less than not less than one-eighth (1/8) of an acre (5,445 square feet) in area with a minimum width or depth of forty (40) feet is prohibited.

C. ***Village District:*** Regardless of size, pre-existing small lots may be developed for any permitted or conditional use identified in Table 2.1, including lots less than one-eighth (1/8) of an acre (5,445 square feet) in area with a minimum width or depth of less than forty (40) feet. All other standards of these regulations, including lot coverage and setback requirements must be met. There shall be no deemed merger requirement in the Village District.

## Section 3.6 Height Requirements

A. The maximum height of structures in all districts, except the Developed Shoreland District and Undeveloped Shoreland District, shall be three (3) stories or thirty-five (35) feet, whichever is less, as measured from the lowest pre-development natural grade at the proposed footprint of the

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building foundation, except as permitted under Subsection (C), or exempt under Subsection (D)

- B. The Developed Shoreland District and Undeveloped Shoreland District: In the Shoreland Districts, the maximum height of structures shall be thirty (30) feet as measured from the lowest pre-development at the proposed footprint of the building foundation, unless exempt under Subsection (D).
- C. The DRB may permit structures in excess of the district height limit, subject to conditional use review under Section 5.3, provided that:
  - 1. The structure does not constitute a hazard to public safety, or to adjoining properties;
  - 2. The portion of the structure above district height limit shall remain unoccupied except for normal maintenance;
  - 3. The structure is not to be used for advertising purposes;
  - 4. Lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation, and shall be consistent with the Conditional Use Lighting Standards in Section 5.3(E);
  - 5. The proposed building height and scale is consistent with the character of the immediate surroundings; and
  - 6. No part of the structure is located in the Developed Shoreland District and/or Undeveloped Shoreland District.
- D. The following are specifically exempted from the height requirements of this bylaw:
  - 1. Agricultural structures in accordance with the Act [§4413(d)];
  - 2. Antennas and flag poles less than 50 feet in height;
  - 3. Chimneys extending above the roofline and necessary to comply with fire safety code;
  - 4. Rooftop solar collectors less than ten [10] feet high or wind turbines with blades less than twenty [20] feet in diameter, or similar structures [§4412(6)];
  - 5. Facilities regulated by the Vermont Public Service Board [§4413(b)].
- E. Subject to Conditional Use Review, the DRB may approve Steeples, spires, minarets, cupolas, belfries, and similar rooftop appendages that extend above the maximum height for the District, provided that all roof appendages occupy an aggregate of not more than twenty percent (20%) of the area of the building and are not used for human occupancy. In addition to the Conditional Use Standards outlined in Article V, the DRB shall consider impacts to view sheds and solar gain of adjacent properties.
- F. Disclosure of pre-development site work: In order to determine pre-development natural grade, the Zoning Administrator and/or Development Review Board may require the applicant to disclose all earthwork occurring in the ten (10) years prior to the application for development. Failure to provide this information shall constitute an incomplete application, and shall be grounds for denying the application. Fill, grading and other site work designed as pre-development site preparation, including road and driveway construction, grading for house-sites, and septic systems, or related work, shall not constitute “pre-development natural grade.”

## **Section 3.7 Lot and Yard Requirements**

- A. There shall be only one principal structure or one principal use and its associated structures per lot, unless otherwise specifically approved as a mixed use. Provision is made for accessory uses and structures, home occupations, and other home-based industries or uses that are accessory to the principal use.
  - 1. Mixed Use: Within the Village District, multiple uses in one principal structure, including residential and non-residential uses, may be permitted on a single lot, provided that district lot coverage requirements are not exceeded, and subject to conditional use review.
- B. For lot areas, lot frontage, lot depth and all yard setbacks, the requirement specified is the minimum standard to be met. For coverage and building footprint, the requirement specified is the maximum permitted.

- C. No lot shall be so reduced in size that the area, setback, or other dimensions are smaller than those prescribed in this bylaw, except as permitted in a Conservation Subdivision pursuant to Section 6.7.
- D. In calculating the required area, width or depth of a lot, existing and proposed rights-of-way shall be excluded.
- E. For lots in all districts, there shall be no hazard to vision within twenty-five feet of a street intersection or highway entrance between the height of three (3) feet and ten (10) feet above the average grade of each street.
- F. The lot frontage requirement for the District shall serve as the lot width requirement for non-frontage lots. Any interior lot which does not have frontage on a public or private road shall meet minimum yard requirements for all yards equal to the side yard setback distance for lots in that district.
- G. Setbacks are to be measured from the property line back to the closest point of the structure or object. On streets with less than a fifty (50) foot right-of-way or where the width of the street right-of-way is not established, the front-yard requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the front yard requirement.
- H. All yards adjoining a street shall be considered a front yard for the purpose of these regulations.

### Section 3.8 Nonconforming Uses and Noncomplying Structures

- A. In accordance with the Act [§4412(7)], these regulations address three categories of nonconformity:
  - 1. Nonconforming structures (see Subsection (B));
  - 2. Nonconforming uses (see Subsection (C); and
  - 3. Existing small lots (see Section 3.5).
- B. **Nonconforming Structures.** Any pre-existing structure or part thereof which is not in compliance with the provisions of these regulations concerning density, setbacks, height, lot size or other dimensional standard, or which does not meet other applicable requirements of these regulations, shall be deemed a nonconforming structure. Nonconforming structures legally in existence on the effective date of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions. A nonconforming structure:
  - 1. May undergo normal repair and maintenance provided that such action does not increase the degree of noncompliance (see definition of degree of noncompliance in Article 7);
  - 2. May be restored or reconstructed after damage from fire or other catastrophe, provided that the reconstruction does not increase the degree of noncompliance which existed prior to the damage and that the reconstruction occurs within two years of such damage;
  - 3. May be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of noncompliance;
  - 4. May, subject to conditional use review under Section 5.3, undergo alteration or expansion which would increase the degree of noncompliance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards);
- C. **Nonconforming Uses.** Any use of land or a structure which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. Nonconforming uses which legally exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

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1. Shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from fire or other catastrophe, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within two years of such damage;
2. Shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of two years, regardless of the intent to re-establish such prior use;
3. Shall not be changed to another non-conforming use; and
4. Shall not be moved, enlarged, or increased by any means whatsoever, nor shall a nonconforming use be moved to a different lot within the same district in which it is located.

D. In additions to the Standards outlined above, nonconforming structures and uses located in the Developed Shoreland District are subject to standards established under Table 2.6(E)

### Section 3.9 Open Storage of Junk and Vehicles

- A. The dumping, burying, disposing, or burning of garbage, refuse, scrap metal, rubber, or similar materials is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.
- B. In any district, junk, salvaged materials, or more than two (2) motor vehicles or portions thereof which are non-operating and not registered with the state, with the exception of vehicles or materials used in farming or forestry operations, shall be stored in an enclosed area or in an area concealed from public roads (also See Salvage Yards, Section 4.10).
- C. Within the Flood Hazard Overlay District, the storage of equipment or materials must conform to the standards found in the Elmore Flood Hazard Regulations, as most recently amended.

### Section 3.10 Parking and Loading Requirements

- A. **Parking.** Adequate provision shall be made so that normal vehicular traffic associated with any use may be parked off of public roads and rights-of way. Spaces shall be provided as follows whenever any new use is established, or when the present use is expanded or changed:
  1. A minimum number of parking spaces as determined by proposed use shall be provided in accordance with the requirements listed in Table 4.1.
  2. An off-street parking space shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet, and adequate maneuvering room and access to a public road. For purposes of initial calculation, an off-street parking space with access and maneuvering room may be estimated to be three hundred (300) square feet.
  3. In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal requirements.

<b>Table 4.1 Minimum Off-Street Parking Requirements</b>	
Use	Parking Spaces
Residential Dwelling Unit, one bedroom/efficiency	1.0 per dwelling unit
Residential Dwelling Unit, two or more bedrooms	2.0 per dwelling unit
Residential Dwelling unit, elderly housing, two or more bedrooms	1.5 per dwelling unit
Home Occupation/Cottage Industry	2 per dwelling unit, and 1 per additional employee

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Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Home Day Care	2 per dwelling unit, and 1 per additional employee
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Lodging (hotel, motel, inn, lodge)	1 per lodging unit, and 1 per employee for the largest shift
Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Public assembly (churches, auditoriums, etc.)	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is greater
Personal Services	1 per employee, and one per customer service station
Commercial/Retail/Office	1 per 250 sq. ft. of gross floor area
Restaurants/Eating Establishments	1 per 4 seats, and one per employee for the largest shift
Industry	1 per employee
Mixed/Multiple Use	total required per each individual use
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Unspecified	As determined by the DRB under conditional use review

4. The DRB may require additional parking and loading spaces for any conditional use if it is found the minimum standards are not sufficient to accommodate the use.
5. The parking of motor vehicles may be allowed in setback areas unless specifically prohibited under other provisions of this bylaw, or as otherwise required under conditional use review.
6. Parking areas associated with proposed conditional uses shall be located and landscaped in accordance with the standards set forth in Section 5.3.
7. Parking for two (2) or more abutting lots may be constructed across any common side or rear lot. Such parking may be served by a common driveway, either on the common boundary or entirely within the frontage of one lot. Where common access is entirely within on one lot, an access easement, lease, or other similar arrangement shall be duly recorded.
8. The Development Review Board may authorize locating required parking off-site on (an)other premise(s) in accordance with the following requirements:
  - i. The proposed off-site parking area shall lie within one thousand five hundred (1,500) feet of the principal access of the proposed use. The Development Review Board may approve off-site parking farther from the proposed use, provided the applicant can demonstrate that adequate pedestrian infrastructure or transportation management (such as shuttle) to connect the parking area and proposed use exists or is proposed, and

- ii. The proposed off-site parking area is not counted toward satisfying the parking requirements of any other uses except in accordance with the provisions for shared parking; and
  - iii. The applicant has been granted a lease, easement, or similar agreement granting parking rights to the subject property.
9. **On-Street Parking:** In the Village District, on-street parking may be utilized to satisfy the parking requirements of this section. New on-street parking may be created, subject to the approval of the entity responsible for management of the roadway (Vermont Agency of Transportation or Elmore Selectboard), and the following standards:
- i. New on-street parking shall be situated so as to maintain a minimum ten (10) foot wide travel lane. Narrower travel lanes shall only be approved with consent of the Elmore Selectboard (on Town Roads) or the Vermont Agency of Transportation (on State Highways).
  - ii. Parallel parking spaces shall be at least seven-feet-six-inches (7'6") wide. Diagonal parking shall be situated to allow for twenty (20) feet between the travel lane and the curb or edge of pavement.
10. **Bicycle Parking.** The provision of bicycle parking is encouraged. Bicycle parking should be of sufficient size to accommodate a full sized bicycle, included space for access and maneuvering, and should allow the bicycle wheel and frame to be locked to the facility. For every five (5) permanently affixed bicycle parking spaces provided, the number of required parking spaces may be reduced by one (1).
- B. **Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may also be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or to or from any internal road or access.
- C. **Waivers.** The DRB may also, subject to conditional use review, waive on-site parking, loading and/or service area requirements based on the Board's determination under one or more of the following provisions, that, due to circumstances unique to the development, the strict application of these standards is unnecessary:
- 1. Green areas are set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the space(s) initially permitted are deemed inadequate to meet demonstrated need; and/or
  - 2. Sufficient off-site public parking exists within reasonable walking distance of the establishment.

### Section 3.11 Performance Standards

- A. The following standards apply to all uses, with the exception of agriculture and forestry, in all districts. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all assessors and assigns. No use shall cause, create or result in:
- 1. **smoke dust, odors, noxious gases, or other forms of air pollution** which constitute a nuisance to neighboring landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; or which are offensive or uncharacteristic of the area;
  - 2. **noise** which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area. In no case will noise levels exceed sixty (60) decibels as measured at the nearest property line;
  - 3. **noticeable, or clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments;

4. **glare, lume, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is detrimental to the public health, safety, or welfare;
  5. **fire, safety, explosive, radioactive emission or other hazard** which endangers the applicant's or neighboring properties, or the general public or which results in a significantly increased burden on municipal facilities and services;
  6. **liquid or solid wastes or refuse** in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden to municipal facilities; which pollute ground and surface waters; or which are otherwise detrimental to the public health, safety, and welfare.
- B. Agricultural operations shall at minimum observe Required Agricultural Practices (RAPs) as defined and administered by the Vermont Agency of Agriculture, Food & Markets, as revised (see Section 1.4).
- C. Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation, as revised (see Section 1.4).

### Section 3.12 Rivers, Streams and Wetlands

- A. To prevent soil erosion, protect wildlife habitat and maintain water quality, an undisturbed, vegetated buffer strip shall be maintained for a minimum of fifty (50) feet from all wetlands, streams, and rivers. The 50' buffer strip shall be measured from the mean water mark or delineated wetland boundary. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:
1. Road, driveway and utility crossings.
  2. Streambank stabilization and restoration projects, in accordance with all applicable State and Federal regulations.
  3. Unpaved bicycle and pedestrian paths and trails.
  4. Public recreation facilities and improved river/lake accesses.
- B. The expansion or enlargement of any structure in existence prior to the effective date of this ordinance and not in compliance with subsection 4 (A), above, is permitted with the approval of the DRB in accordance with Section 3.8.
- C. For development subject to conditional use review, minimum required setback and/or undisturbed buffer strip distances may be increased as appropriate based on site, slope or soil conditions and the nature of the proposed use.
- D. If development occurs on land containing slopes in excess of 15% within five hundred (500) feet of any river, stream or wetland protected under this section, the required fifty (50) foot vegetated buffer strip shall be expanded to include an additional two (2) feet for every one (1) percent of slope. For example, if development occurs on a 16% slope, a buffer of 82 feet in width shall be required [50 feet minimum plus 32 feet (or 16x2) in additional width].

### Section 3.13 Signs

- A. **Exemptions.** A zoning permit shall be required prior to the erection, construction or re-placement of any outdoor sign, except for those listed in the Column 1 of Table 3.2 which shall be exempt from this bylaw unless otherwise specifically prohibited under subsection (B).
- B. **Prohibited Signs.** The signs listed in the Column 2 of Table 3.2 shall be prohibited in all districts.

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- C. **General Standards.** All signs, other than those specified under subsection (A), shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements pertaining to all signs:
1. No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise recreational, commercial, business, public or industrial use in those districts where such uses are permitted.
  2. Externally illuminated signs shall be lighted so as not to produce undue glare, hazards, or distractions; internally illuminated signs are prohibited. A constant, shielded light source may be used for indirect lighting, provided that the lighting is directed only on the sign surface, preferably from above, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.
  3. No sign shall be illuminated during hours when the premises are not occupied or open for business.
  4. No sign shall contain string lighting, pennants, or similar attention gathering devices, nor may they contain or support any device capable of emitting noise.
  5. Free-standing signs, as measured from the average grade of the ground to the top of the supporting structure, shall not exceed twelve (12) feet in height.
  6. Wall signs and projecting signs shall be securely fixed to the wall of a principal structure, and shall not obscure architectural features of the building.
  7. Projecting signs shall not exceed six (6) square feet in area or extend over public rights-of-way.

<b>Table 4.2 Exempted &amp; Prohibited Signs</b>	
<b>1. Exempted Signs (see Section 4.13 (A))</b>	<b>2. Prohibited Signs (see Section 4.13 (B))</b>
Signs erected by the state or town on public roads	Signs which impair highway safety.
Non-advertising signs placed for directional, safety or public service purposes.	Signs which are animated, flashing, made of reflective material or are intermittently or internally illuminated.
One residential sign per dwelling unit identifying the occupant, not to exceed two (2) square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.	Signs painted on or attached to rock outcrops, trees, or similar natural features.
Signs relating to trespassing and hunting, each not to exceed two (2) square feet in area	Advertising signs or banners attached to utility poles or town sign posts.
Temporary auction, lawn, or garage sale or real estate for sale signs, not to exceed two (2) in number or six (6) square feet in total area, which shall be removed immediately following the event or sale.	Roof and wall signs which extend above the eave.
Temporary election signs to be posted and removed in accordance with state law.	Permanent signs which project over public rights-of way or property lines.
Temporary signs or banners advertising public or community events, to be displayed in designated locations on town property with the permission of the Selectboard, which shall be removed immediately following the event.	Signs identifying residential subdivisions and/or developments.
Temporary real estate sign not exceeding six (6) square feet in total area	Signs identifying businesses or uses which are no longer in existence.

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One (1) temporary construction sign, not to exceed sixteen (16) square feet in area or ten (10) feet in height, may be placed on any site under development providing such sign is promptly removed immediately following completion of construction.	Signs located on motor vehicles which are used primarily as a support or foundation.
Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment, 16 square feet in total area, or six (6) feet in height above ground level	Off-premises signs, except for those which conform to state laws.
Unlit wall-mounted or freestanding signs advertising a home occupation, home based business or home day care facility, not to exceed one (1) per residential dwelling or three (3) square feet in area.	
On-premise historic or landmark signs, not to exceed (1) one in number or six (6) square feet in area.	
Wall murals intended solely for artistic, non-advertising purposes.	
Window signs which do not exceed thirty (30) percent of the window pane area.	

8. Notwithstanding district setback requirements for structures, free-standing signs may be placed at the edge of the highway right-of-way; however, such signs shall not obstruct sight distances or travel lanes or otherwise create a safety hazard, nor be located within twenty (20) feet of an adjacent private property as measured from the property line, unless combined on the same stand with the sign of an adjacent business
9. All permitted signs shall be maintained in a secure and safe condition.
10. Nothing in this bylaw shall prevent normal sign maintenance and repair, including the replacement of broken parts. Nonconforming signs may remain in use unless they are damaged beyond fifty (50) percent of their appraised value, and/or are reconstructed, remodeled, relocated, replaced or enlarged.

**D. Specific Standards.** The following sign provisions apply to specific uses as follows:

1. Individual **business, mixed use or commercial** structures are allowed a maximum of two (2) fixed signs, including not more than one (1) freestanding sign. No one sign shall exceed sixteen (16) square feet in area. In addition, one (1) moveable sandwich board sign advertising specials or events, not exceeding twelve (12) square feet in area or four (4) feet in height, and set back from road rights-of-way and property lines, may also be permitted.
2. Individual **industrial, manufacturing, warehouse and storage** uses are allowed one (1) freestanding, wall or projecting sign, not to exceed sixteen (16) square feet in total area.
3. **Gasoline sales**, in addition to the signs allowed for business under (1), are allowed to have either one (1) pricing sign which does not exceed twelve (12) square feet in area, or pump-top pricing signs, each not to exceed two (2) square feet in area.
4. No residential sign shall exceed ten (10) square feet in total area.

**E. Exceptions.** Proposed signs which may not otherwise meet the requirements of this Section may be approved by the DRB subject to conditional use review under Section 5.3 and a finding that the sign has distinctive artistic and/or cultural merit which will contribute significantly to the character of the neighborhood and community.

**F. Measurement.** When computing the total number of signs or permissible sign area for any use, the following shall apply:

1. Existing signs, except for those specifically exempted under Subsection (A), shall be included in the calculation of the total number and area;
2. Freestanding and projecting signs printed back-to-back (having two visible sides) shall be counted as one sign, and the area shall be computed for one side only;
3. Signs consisting of freestanding letters or numerals shall include any intervening spaces (the entire message area), in the calculation of total sign area;
4. Sign area measured shall be the area included within the extreme limits of the sign surface, excluding supporting structures.

### Section 3.14 Temporary Uses and Structures

- A. A temporary permit may be issued by the Zoning Administrator for non-conforming uses, excluding residential dwellings, which are incidental to a construction project, for a period not exceeding one (1) year, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit.
- B. Any trailer used for storage or other accessory use for a period exceeding thirty (30) days shall be considered a structure subject to all of the terms and conditions of this bylaw.

### Section 3.15 Wastewater and Potable Water Supply

- A. **Compliance with State Regulations.** No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable state regulations. In accordance with the ACT (§4414(13)), for uses requiring approval under state on-site sewage disposal regulations, a copy of the State wastewater and potable water supply permit under 10 VSA chapter 64 must be submitted to the Zoning Administrator prior to the issuance of a zoning permit under Section 8.1.

### Section 3.16 Stairs, Walkways, Access Paths, and Fences

- A. **Stairs, walkways, and access paths** are a permitted use as an Accessory Structure in all Districts.
- B. In the Developed Shoreland District, Undeveloped Shoreland District, and Village District, stairs, walkways, and access paths 4 feet in width or less are a permitted use as an Accessory Structure.
  - a. Stairs, walkways, and access paths greater than 4 feet in width but less than 6 feet in width within the Lakeside Zone may be allowed by the DRB as a conditional use under Section 5.3.
  - b. Only one stairway, walkway, handicap ramp, or access path will be allowed per lot in the Lakeside Zone.
- C. Stairs, walkways, and access paths will be included as part of the lot coverage calculations.
- D. **Fences** that do not exceed seven (7.0) feet in height, as measured from the ground to the highest point of fence, are a permitted use in all Districts, unless located in the Flood Hazard Area Overlay.
  - a. Fences are exempt from property line setbacks. A fence may be placed up to but not on a property line, such that both sides of the fence can be erected and maintained from the property of the person erecting the fence.
  - b. A fence more than seven (7.0) feet high is a conditional use in all districts subject to approval by the Development Review Board under Section 5.4.
  - c. Fences in the Flood Hazard Area Overlay shall require conditional use review by the Development Review Board under Section 5.4. Fences are prohibited from the floodway. Fences in the floodway fringe must not impede the flow of water during such an event. It will be the responsibility of the applicant to provide sufficient proof to the Development Review Board that this requirement is met.
  - d. Fences associated with agricultural uses exempt under Section 1.4 are exempt from these standards.



## ARTICLE IV. SPECIFIC USE PROVISIONS

### Section 4.0 Specific Standards for Designated Uses

The following standards shall apply to the designated use in all zoning districts in which the respective uses are allowed. Such uses may be subject to conditional use review in accordance with Section 5.3. Variances from these standards shall not be granted by the DRB. If there is a conflict between a standard in this section and a standard in another section of this Bylaw, the more restrictive standard shall apply.

### Section 4.1 Accessory Dwelling

- A. **Accessory Dwellings.** In accordance with the Act [§4412(1)(E)], one accessory dwelling unit that is located within or appurtenant to a single family dwelling may be allowed as a permitted use in any district subject to review by the Zoning Administrator and the following requirements:
1. The floor area of the accessory dwelling, with the exception of agricultural accessory dwellings, shall not exceed 30% of the existing total habitable floor area of the single family dwelling, excluding unfinished attics and basements, or 800 square feet of habitable floor area, whichever is greater;
  2. The property shall have sufficient wastewater capacity;
  3. All applicable setback and coverage requirements specified in these regulations shall be met;
  4. One (1) on-site parking space shall be provided for the resident(s) of the accessory dwelling, and
  5. The accessory dwelling may be served by the same access and driveway as the single family dwelling.
- B. Notwithstanding subsection (A), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the DRB as a conditional use under Section 5.3.
- C. **Accessory Farm Dwellings.** Up to two dwelling units, in addition to the primary residence, which are accessory to an operating farm, may be permitted by the Zoning Administrator, subject to the following standards:
1. The accessory farm dwelling is occupied by full time employees working on said farm, and their immediate family;
  2. The accessory farm dwelling is limited to a mobile home, as defined in Article VII;
  3. The accessory farm dwelling shall meet all requirements applicable to single family dwellings, including dimensional standards and access and parking standards;
  4. The accessory farm dwelling(s) shall be removed from the parcel in the event they no longer house employees of the farm, or in the event the farm ceases operation; and
  5. Adequate water supply and wastewater disposal systems are installed in accordance with applicable municipal and state regulations.
- D. A zoning permit issued for an accessory dwelling (including an accessory farm dwelling) shall clearly state that the dwelling is permitted only as an accessory to the principal residential use of the property and shall be retained in common ownership. Such a dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying either to individual single family dwellings or, in the case of an attached accessory dwelling, to multi-single family dwellings, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to conversion to, or conveyance as, a principal dwelling.

### Section 4.2 Campers

- A. No camper (travel trailer, recreation vehicle) shall be parked on any public or private property except in conformance with the following regulations:

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1. Campers are permitted to be parked in approved campgrounds for temporary periods and on construction sites subject to the standards contained in Section 4.14.
2. One registered camper may be parked on the premises of a principal dwelling provided that it is parked no closer than six (6) feet to any lot line; is not occupied for dwelling purposes for more than thirty (30) days per calendar year.
3. Any camper used for living quarters for more than 30 days per calendar year, or is sited so as not to be readily moveable, shall be deemed a dwelling and shall be subject to all zoning regulations applicable to accessory dwellings (see Section 4.1) as appropriate.
4. Any wastewater or sewage generated by a camper shall be disposed of in accordance with all applicable local, state and federal regulations.

## Section 4.3 Day Care & Home Child Care Facilities

- A. **Home Child Care.** In accordance with the Act [4412(5)], a state registered or licensed day care facility located within a single family residence serving six (6) or fewer children on a full time basis in addition to not more than four (4) children on a part time basis, in addition to the care giver's own children, shall be considered by right to constitute a permitted single family residential use of the property. No conditional use approval shall be required; a zoning permit is required, and may only be issued by the Zoning Administrator, after the applicant for a day care facility:
1. Submits proof that the facility is properly registered or licensed by the state to accommodate not more than six (6) children on a full time basis and not more than four (4) children on a part time basis;
  2. meets all zoning district requirements pertaining to single family dwellings; and
  3. fulfills the application requirements of Section 8.1 of this bylaw.
- B. **Other Day Care Facilities.** Day care facilities serving more than six (6) full time children and four (4) part time children may be permitted within designated zoning districts subject to Conditional Use Review in accordance with Section 5.3.

## Section 4.4 Group Homes

- A. In accordance with the Act [4412(1)(G)], a state licensed or registered residential care home or group home, serving not more than eight (8) persons who have a disability or handicap, as defined in 33 VSA §4902(3)(A), shall be considered by right to constitute a permitted single family residential use of property, No conditional use approval shall be required; a zoning permit is required, and may only be issued by the Zoning Administrator, after the applicant for a group home facility:
- a. Submits proof that the facility is properly registered or licensed by the state to accommodate not more than eight (8) persons, excluding on-site caregivers;
  - b. Meets all zoning district requirements pertaining to single family dwellings; and
  - c. Fulfills the application requirements of Section 8.1.
- B. Group homes or community care facilities serving more than eight (8) persons may be permitted within designated zoning districts subject to conditional use review in accordance with Section 5.3.

## Section 4.5 Home Based Businesses (Home Occupations, Cottage Industries)

- A. **Home Occupations** In accordance with the Act [4412(4)] no provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area. A home occupation shall be permitted which is customarily conducted entirely within a dwelling or accessory structure and carried on by the occupants thereof, and which is clearly incidental and secondary to the use for dwelling purposes, and does not change the character of the dwelling or the neighborhood. Home occupations, as distinguished from cottage industries under this Section,

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are permitted as an accessory use in all districts where residential uses are permitted. A zoning permit shall be required for a home occupation in accordance with the following.

1. The home occupation shall be conducted on-site by residents of the dwelling and no more than two non-resident employees.
  2. The home occupation shall be carried on within a minor portion of the dwelling or a minor portion of accessory building such as a garage or barn. In no case shall the home occupation occupy greater than 50% of the floor area of the primary dwelling.
  3. Exterior displays of goods and wares, the exterior storage of materials, or other exterior indications of the home occupation, including alterations to the residential character of the principal or accessory structures shall not be permitted. One unlit exterior sign is permitted in accordance with Section 3.13.
  4. No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood.
  5. Home occupations shall conform to all performance standards under Section 3.11.
  6. Off street parking shall be provided to accommodate residents and non-resident employees, as required under Section 3.10.
- B. Cottage Industries** Cottage industries or home-based businesses (as distinguished from Home Occupations) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.3 and the following additional provisions:
1. The business owner shall reside on the lot.
  2. The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50% of the combined floor area of all structures on the lot. However, the DRB may permit the use of floor space in excess of 50% of the combined floor area of all structures on the lot providing the use does not change the residential character of the property or neighborhood.
  3. The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot other than the addition of one, non-illuminated sign that meets the requirements of Section 3.13.
  4. The residents of the dwelling unit, and no more than six (6) non-resident employees may be employed on-site at any one time.
  5. The business shall not generate traffic, including but not limited to delivery truck traffic, in excess of volumes that are characteristic of the neighborhood.
  6. Adequate off-street parking shall be provided for all residents, employees and customers in accordance with Section 3.10.
  7. There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
  8. The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, firewood or lumber, must be completely screened year-round from the road and from neighboring properties.
  9. On-site wholesale and/or retail sales shall be limited to products produced on the premises.
  10. The business shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable performance standards included under Section 3.11. Conditions may be placed on the hours of operation as appropriate.
  11. The permit for a cottage industry shall clearly state that the industry is a home-based business which is accessory to the principal residential use, and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use, including all density, dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

C. **Rural Industries.** Also see standards for Rural Industries under Section 4.9.

## Section 4.6 Land Filling, Excavation and Extraction

- A. The removal of soil, sand, rock, stone or gravel, except when incidental to the construction of a building on the same premises, may be permitted in designated zoning districts subject to Conditional Use Review in accordance with Section 5.4 and, findings that the proposed activity meets the standards below in addition to any other applicable standards contained in this Bylaw, including but not limited to performance standards under Section 3.11. Any zoning permit issued for such operations shall be limited to a period not to exceed five (5) years, and the following provisions.
- B. **Application Requirements.** In addition to application requirements under Sections 8.1 and 5.3, the applicant shall submit two (2) copies of proposed erosion control and site restoration plans prepared by a licensed engineer, showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.
- C. In granting conditional approval, the DRB shall find that the proposed activity will not cause any hazard to public health or safety, or otherwise have an undue adverse effect on:
1. Neighboring properties and uses;
  2. Public facilities and services;
  3. Surface and ground water; or
  4. The scenic or natural beauty of the area, other aesthetic values, historic sites or rare or irreplaceable
  5. Natural resources or areas.
- D. In granting approval, the DRB shall consider and impose conditions with respect to the following factors as it deems appropriate:
1. Depth of excavation or quarrying above the water table;
  2. Slopes created by removal;
  3. Effects on surface drainage on and off-site;
  4. Storage of equipment and stockpiling of materials on-site;
  5. Hours of operation for blasting, trucking, and processing operations;
  6. Effects on neighboring properties due to blasting, excavation or crushing activities, or other noise, dust, or vibration;
  7. Creation of nuisances or safety hazards;
  8. Effects on traffic and road conditions, including potential physical damage to public highways;
  9. Temporary and permanent erosion control;
  10. Effect on ground and surface water quality, and drinking water supplies;
  11. Effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
  12. Effect on agricultural land; and
  13. Site reclamation.
- E. **Surety Requirement.** In accordance with the Act [4464(4)(6)] a performance bond, escrow account, or other surety acceptable to the Selectboard shall be required to ensure site reclamation upon completion of excavation projects, to include any regrading, reseeding, reforestation or other activities that may be required.

## Section 4.7 Mobile Home Parks

Mobile home parks shall be developed in accordance with the procedures for Conservation Subdivision (Section 6.7) and applicable state requirements [10 V.S.A., '153]. Where there is a conflict between the provisions of this bylaw and state regulations, the latter shall take precedence.

## Section 4.8 Public Facilities

- A. In accordance with the Act [§4413(a)], the following public facilities or uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of excluding, or interfering with the intended use or function:
  - 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, convents, monasteries, and parish houses;
  - 4. Public and private hospitals;
  - 5. Regional solid waste management facilities certified by the state (under 10 V.S.A. Chapter 159);
  - 6. Hazardous waste management facilities for which a notice of intent to construct has been received by the state (under 10 V.S.A. §6606a).
- B. Reasonable provision has been made for siting of the above public facilities and uses within specified zoning districts, as summarized in Table 4.1. Such facilities or uses must meet applicable district requirements, and may be subject to conditional use review under Section 5.3; however associated conditions of approval shall not exceed allowed regulation, as specified in the Act and Subsection (A).
- C. In accordance with the Act [§4413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. §248) are specifically exempted from municipal land use regulations.

## Section 4.9 Rural Industry

Rural industry (as distinguished from cottage industries under Section 4.5) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.3, and conformance with the following provisions:

- A. Total floor area shall not exceed 10,000 square feet of enclosed space and shall be located on a lot with a minimum area of ten (10) acres.
- B. Overall building height shall not exceed 35 feet; however the height of individual attached structures may exceed 35 feet, subject to review under Section 3.6.
- C. All rural industry shall meet minimum setback requirements for the district in which it is located. In addition, a strip of land at least 50 feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No parking, building or other structure shall be located in this buffer area. Additional landscaping, screening and/or fencing along property boundaries may also be required as appropriate for screening, safety and security.
- D. Rural industries shall be limited to those manufacturing, fabrication, processing or warehousing activities that will not produce noise, vibration, noxious emissions, air or water pollution, fire or explosion hazard which would endanger or disturb neighboring properties. Such uses must comply with all performance standards under Section 3.11; additional conditions may be imposed to protect public health, safety, and welfare, and municipal facilities and services.
- E. All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.

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- F. Rural industry shall have frontage on public roads or access to such roads from a private industrial development road or driveway.
- G. On-site wholesale and/or retail sales shall be limited to products produced on the premises.

## **Section 4.10 Salvage Yards**

- A. Salvage yards may be permitted within designated zoning districts subject to review and approval by the Elmore Selectboard under separate statute [24 V.S.A., Chapter 61, Subchapter 10], and conditional use review under Section 5.3. In addition to the standards set forth in Section 5.3, salvage yards shall comply with the following provisions:
  - 1. No new salvage yard may be established within the Flood Hazard Overlay District, nor may discontinued salvage yards be re-established with the Flood Hazard Overlay District.
  - 2. A minimum of three (3) contiguous acres shall be required for new yards. No yard shall exceed five (5) acres in total area or extent.
  - 3. Yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands. Required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties.
  - 4. Yards shall be screened year-round from public view and from adjoining residential properties. Additional landscaping, fencing or other forms of screening may be required as appropriate.
  - 5. Yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties.
  - 6. Exterior lighting shall be the minimum required for security and safe operation.
  - 7. The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies, or other identified natural, cultural, or scenic features on-site, or in the vicinity of the yard.
  - 8. Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
  - 9. All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean-up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required.

## **Section 4.11 Subdivision of Land**

All subdivisions shall be reviewed and approved in accordance with the procedures and standards set forth in Articles VI and VII of these Regulations.

## **Section 4.12 Telecommunications Facilities**

- A. New or expanded telecommunication facilities, including but not limited to towers and accessory structures; may be permitted in designated zoning districts subject to conditional use review under Section 5.3 and the following provisions:
  - 1. A proposal for a new tower shall not be permitted unless the applicant demonstrates to the satisfaction of the DRB that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure.
  - 2. All new towers shall be designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user if the tower is less than or equal to 75 feet in height, and at least two additional users if it exceeds 75 feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
  - 3. All towers, including antennae, shall be less than 100 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.

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4. No wireless telecommunication site shall be located within 500 feet of an existing residence, school or residential care or health facility.
  5. Towers shall be set back from all property lines and public rights-of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the DRB:
    - a. If tower design and construction guarantees that it will collapse inwardly upon itself, and no liability or risk to adjoining or public property shall be assumed by the municipality; or
    - b. To allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
  6. Tower construction and wiring shall meet all state and federal requirements, including but not limited to Federal Communication Commission requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
  7. New towers shall be located to minimize their visibility. No tower shall be located on an exposed ridge line or hill top, or within the Elmore Mountain Telecommunications Exclusion Area (depicted on the official zoning map). New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Towers should be installed in forested settings wherever feasible. No tower, antenna and/or associated fixture or equipment shall exceed a height of 20 feet greater than the average height of the canopy measured within a 300 foot radius of the facility. A management plan may be prepared and submitted to the Board to ensure that the adjoining tree cover will be maintained to create the visual impression of the tower and/or associated equipment emerging from a largely unbroken tree canopy and protruding no more than 20 feet above that canopy. Commercial wireless towers shall be of a monopole design unless it is determined by the Board that an alternative design would better blend into the surrounding environment.
  8. Towers shall be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.
  9. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
  10. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
  11. Access roads, and all utility buildings and structures accessory to a tower shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate to site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.
  12. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.
- B. In addition to the site development plan required under Section 5.12 applications for new towers shall also include the following:
1. A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;

2. Information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available.
  3. A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  4. Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
  5. Any additional information needed to determine compliance with the provisions of these regulations.
- C. Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted by the zoning administrator without conditional use approval provided that:
1. No changes are made to the height or appearance of such structure except as required for mounting;
  2. The height of the antenna as mounted does not exceed height requirements under Section 3.6;
  3. No panel antenna shall exceed 72 inches in height or 24 inches in width;
  4. No dish antenna shall exceed 3 feet in diameter;
  5. Any accompanying equipment shall be screened from view.
- D. The following are specifically exempted from the provisions of these regulations:
1. A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
  2. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

## Section 4.13 Accessory On-Farm Business

- A. **Applicability.** In accordance with 24 V.S.A. §4412, the following section shall apply to all accessory on-farm businesses in the Town of Elmore. To be eligible as an accessory on-farm business, the business shall comply with each of the following:
1. The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.
  2. The farm meets the threshold criteria for the applicability of the Required Agricultural Practice rules as set forth in those rules.

This section shall not apply to “agriculture” or “farm structures” as defined in Article IX. This section shall also not apply to principal uses on a farm.

### B. Types of Accessory On-Farm Businesses.

1. **Storage, Preparation, Processing, Sales of Agricultural Products.** On-farm businesses that store, prepare, process and sell qualified products, as defined in Article X, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.
2. **Educational, Recreational, or Social Events.** On-farm businesses that feature agricultural practices or qualifying products, or both. Such events include tours of the farm, farm stays,

tastings and meals featuring qualifying products, and educational classes or exhibits in the preparation, processing, or harvesting of qualifying products.

- C. **Review Standards.** Activities of an accessory on-farm business that are not exempt per Section 1.4 shall be reviewed for conformance with the following standards:
1. **Use of Structures and Land.** An accessory on-farm business may take place inside new or existing structures or on the land.
  2. **General Regulations.** Accessory on-farm businesses shall comply with District Standards outlined in Article II, the general provisions outlined in Article III, and the Specific Standards outlined in Section 5.4.
- D. **Review Process.** An application for an Accessory on-farm business shall submit a site development plan meeting the requirements of Section 5.2. If the Zoning Administrator determines that all Review standards outlined above are met, the Zoning Administrator shall issue a permit in accordance with Section 8.1. If the Zoning Administrator is unable to determine if any standard is met, the application shall be referred to the Development Review Board.

**ARTICLE V. CONDITIONAL USE REVIEW**

**Section 5.1 Applicability of Conditional Use Review Standards**

- A. **Conditional Use Review** standards per Section 5.3 shall apply only to those uses designated as conditional uses in Article II or as otherwise specified under Article IV. Conditional use approval by the DRB is required for construction of new buildings, the substantial improvement of existing buildings, or as specified in the Elmore Flood Hazard Regulations, as most recently amended. Uses designated as permitted uses are not subject to conditional use review standards.

**Section 5.2 Application Requirements**

- A. **Site Development Plan.** An applicant for conditional use or planned residential development review shall submit, in addition to zoning permit application requirements under Section 8.1, one (1) original and three (3) complete copies of a site development plan to include the following:
1. The names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan;
  2. The names and addresses of all adjoining property owners, as determined from the current Elmore Grand List;
  3. A site location map showing the location of proposed development in relation to other properties, surface waters, land uses, roads and utilities within the vicinity of the project; and
  4. A site plan, drawn to scale, prepared by a licensed engineer or surveyor, or as otherwise approved by the DRB, which shows the following:
    - a. North arrow, scale and application date;
    - b. Existing and proposed property boundaries, easements and rights-of-way;
    - c. Zoning district boundaries;
    - d. Existing site features, to include prominent topographic features and areas of steep slope (15% or greater) and extremely steep slope (25% or greater); surface waters, wetlands and associated buffers; designated floodplain and source protection areas; land use and land cover; and critical habitat areas and historic sites;
    - e. Existing and proposed structures, including building footprints, building elevations depicting general design features, walls and fence lines, utilities, roads, driveways, parking and loading areas;
    - f. Existing and proposed traffic and pedestrian circulation patterns, including accesses onto or connections with adjoining properties, public roads and public waters, and associated sidewalks, pathways or trails serving the proposed development;
    - g. Water supply and wastewater disposal design details; and
    - h. Proposed grading, drainage, landscaping, screening, signage, and/or lighting details;
  5. For **development in the flood hazard area overlay district**, the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings; the elevation, in relation to mean sea level, to which buildings will be floodproofed; proposed floodproofing measures; any other requirements of the Elmore Flood Hazard Regulations, as most recently amended ; and any comments received from the Vermont Department of Environmental Conservation following their review of the application; and (6) any additional information required by the DRB to determine project conformance with the provisions of this bylaw (e.g., erosion control, stormwater management or site reclamation plans; traffic, fiscal or visual impact analyses).
  6. In accordance with the Act [4416(b)], whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.

- B. The application shall not be considered complete until all required forms, information and associated fees have been submitted. The DRB may waive one or more application requirements upon determination that the information is unnecessary for the comprehensive review of the application. Such waiver shall be made at the time the application is accepted and deemed complete.

### 5.3 Conditional Use Review Process

- A. **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Zoning Administrator until the DRB grants such approval in accordance with the Act [4414(3)], and the following standards and procedures.
- B. **Review Process.** Upon making the determination that the application as submitted is complete, the DRB shall schedule a public hearing, warned in accordance with Section 8.6 (C). The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review, within forty-five (45) days of the date of the final public hearing; and shall issue a written decision. The written decision shall include a statement of the factual bases on which the Board made its conclusions, a statement of those conclusions, any conditions, and shall specify the period of time within the decision may be appealed to the Environmental Court. Failure to act within the forty-five (45) day period shall be deemed approval.
- C. **General Standards.** Conditional use approval shall be granted by the DRB upon finding that the proposed development will not result in an undue adverse impact on any of following:
  - 1. **The capacity of existing or planned community services or facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of such services and facilities including, but not limited to, schools, emergency services and road maintenance. Conditions may be imposed as appropriate to ensure that demand does not exceed available capacity.
  - 2. **The character of the area affected.** The character of the area affected as defined by the purpose of the zoning district in which the use is located, and by specifically stated policies and standards of the Elmore Town Plan. At a minimum, the Development Review Board shall determine that the proposed use, including any building associated with the use, will be in general harmony with the character of the surrounding neighborhood and will not adversely impact abutting residences or other property; and the proposed use, including any building associated with the use, will be compatible with the stated purpose of the zoning district in which the use will be located. Proposed developments that comply with the Supplemental Development Standards for the District in which it is located shall have a rebuttable presumption to have met this Standard.
  - 3. **A nuisance or hazard** will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use or the citizens of Elmore. Proposed developments that comply with all Performance Standards found in Section 3.11 shall have a rebuttable presumption to have met this standard;
  - 4. **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety, and function of roads and associated infrastructure (e.g., bridges, culverts) potentially affected the proposed development. Conditions may be imposed as appropriate to ensure that the condition, capacity, safety and function of roads and associated infrastructure are adequately maintained over the long-term. In reviewing this criteria, the Board should consider all users of the roads and highways, including motorists, pedestrians, and bicyclists. Where appropriate, scheduling hours of operations to avoid peak traffic hours is an acceptable means of mitigating congestion.
  - 5. **Bylaws in effect.** The Board shall consider whether the proposed development complies with all bylaws in effect at the time of application, including other applicable provisions of this zoning bylaw, and other prior municipal permits and/or approvals. Conditions may

be imposed or incorporated as appropriate to ensure compliance with municipal bylaws and ordinances.

6. **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Conditions may be imposed as appropriate to ensure long-term access, use and availability of such resources.

## 5.4 Conditional Use Review Specific Standards

**Specific Standards.** In addition to the General Standards set forth above, the DRB may impose specific conditions or require project modifications to ensure the following:

- A. **Design and Location of Structures.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed as appropriate with regard to siting, density, setbacks, height, bulk, massing, site clearing, and materials, to ensure compatibility. Proposed developments that comply with the Supplemental Development Standards for the District in which it is located shall have a rebuttable presumption to have met this Standard.
- B. **Energy Conservation:** In all districts, site layout and design, including orientation of buildings and vegetation, should promote the conservation of energy and permit the utilization of renewable energy resources (for example, maximizing southern exposure for passive solar gain, locating vegetation for shade/insulation, etc.)

**Traffic and Pedestrian Circulation.** A coordinated, safe and efficient system for vehicular and pedestrian circulation will be provided on and off-site in accordance with all applicable municipal and state standards. A safe and attractive pedestrian environment shall be provided as appropriate to the use and District. Adequate access for people with disabilities from any parking area and/or adjacent sidewalks to building(s) that are open to the general public shall be provided. Conditions may be imposed as appropriate with regard to intersections, pedestrian paths and crossings, and the number and size of curb cuts, including the reduction, consolidation or elimination of noncomplying curb cuts, and/or provisions for shared access with adjoining parcels (see Section 3.1).

- C. **Parking and Service Areas.** Parking and service areas will be provided in accordance with the requirements of Section 3.10, and be designed to minimize off-site visibility and stormwater runoff. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the Board in relation to existing site limitations. Conditions may be imposed as appropriate with regard to the extent, siting, landscaping, screening, paving, curbing and/or sharing of parking and service areas with adjoining parcels.
- D. **Stormwater Management.** Erosion control will be provided in accordance with the requirements of Section 3.4. All conditional uses shall provide appropriate measures to prevent stormwater runoff from adversely impacting nearby properties, public infrastructure, or downstream water bodies. The provisions below apply to any development that will increase the amount of impervious surface on a lot by more than one half (0.5) acres, as measured cumulatively over any 5-year period.
  1. **Public Stormwater Systems:** Projects utilizing any public stormwater management facility shall provide evidence that the existing system will adequately meet the needed demand, or if the system will not meet the demand, the applicant will provide a plan for upgrading the system to meet the expected demand and provide a bond or security (to the satisfaction of the Selectboard) to cover all or part of the costs of the necessary improvements. The applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.

2. All land development resulting in more than one-half [0.5] acres of new impervious surface shall at minimum meet the Recharge (Rev) criteria and the Water Quality Volume (WQv) criteria, as defined in the Vermont Stormwater Management Manual. All stormwater management facilities shall be designed and constructed in accordance with the most recent standards for such facilities adopted by the State of Vermont, and shall include Low Impact Development techniques whenever possible.
  3. All applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system and/or to utilize the Non-Structural Practices provided for in the most recent version of the Vermont Stormwater Management Manual. Examples of Low Impact Development Practices are provided in the Definitions Section. Applicants are also encouraged to refer to the Vermont Low Impact Development Guide for Residential and Small Sites for further guidance.
  4. Projects that require a State stormwater discharge permit are exempted from the provisions of Sections 1-3 above. Applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system and/or to utilize the Non-Structural Practices provided for in the most recent version of the Vermont Stormwater Management Manual. The DRB approval shall be conditional upon the applicant submitting a copy of the State permit to the Zoning Administrator prior to the start of construction.
- E. **Lighting.** Lighting associated with the proposed development will be the minimum required for safety and security, and will not adversely affect neighboring properties and uses or the quality of the night sky. The maximum height of lighting fixtures or supporting structures shall not exceed twenty [20] feet from grade. Lighting fixtures shall be designed to direct light downward and shall have a cut off angle of 90 degrees or less. Fixtures with a cut off angle of 60 degrees or less are encouraged to prevent skyglow. The use of energy efficient lighting, such as LED fixtures, is strongly encouraged. Additional conditions may be imposed as appropriate with regard to the type, height, and placement of exterior lighting fixtures. A lighting plan shall be required when an area greater than 5,000 square feet is proposed to be illuminated. A lighting plan may be required as appropriate for smaller sites based on proximity to neighboring properties. If required, the lighting plan shall be incorporated as a condition to approval.
- F. **Landscaping & Screening.** The following landscaping and screening standards shall apply to all conditional uses:
1. Proposed landscaping and screening (which may include but not be limited to shade and street trees, shrubs, planting beds, buffers, and ground covers) will preserve and incorporate existing vegetation; be suited to existing site conditions; enhance features unique to the site; and not obstruct scenic views or road visibility.
  2. Screening/Buffering: All parking areas for five (5) or more cars, utility substations, outdoor dumpster/garbage receptacle areas, and/or open storage and loading service yards shall be screened from any adjacent property or public right-of-way. Screening shall include a buffer strip of not less than five (5) feet landscaped with dense evergreens, flowering shrubs, or similar plantings. Integration of fencing or building elements which screen these areas shall be a suitable alternative to this buffer strip. The requirement for screening and buffering may be waived in the Village District when the adjacent lot contains another conditional use.
  3. Internal Parking Lot Landscaping: All off-street parking lots containing twenty (20) or more spaces shall be landscaped with trees, shrubs, and other plants. At least one (1) deciduous tree per ten (10) spaces shall be planted in a bed of not less than forty (40) square feet. In lieu of this requirement, the applicant may install uncurbed planting areas in order to provide for storm water run-off into vegetated areas for treatment.
  4. In lieu of other landscaping requirements in ii. or iii. above, the Development Review Board may approve landscaping of equivalent value for the purpose of improving or restoring wildlife habitat, wetlands restoration and protection, stream bank stabilization and restoration, or similar improvement. Plans for such improvements shall be developed by an appropriate professional. Plantings associated with Low Impact Development

stormwater treatment practices may also be used to meet these landscaping requirements.

5. **Planting Specifications:** Cultivars shall be suitable for the climatic and other conditions in which they will be used (utility lines, salt, air pollution, etc.) and shall be selected using the criteria outlined in the most recent version of the “Recommended Trees for Vermont Communities: A guide to Selecting and Purchasing Street, Park, and Landscape Trees,” published by the Vermont Urban and Community Forestry Program. Alternative cultivars may be utilized based on the recommendations of a certified horticulturalist, landscape architect, or State Extension Service Master Gardener.
  6. Additional conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials.
  7. In the event that forest management or other site clearing occurs prior to the submission of an application, the Board may require re-vegetation/re-forestation of the site, or may limit development to the non-impacted portion of the property.
  8. A three (3) year landscaping plan, and/or bond or other surety to ensure installation and maintenance may be required as appropriate and incorporated as a condition to approval.
- G. **Significant Wildlife Habitat.** Development will not result in an undue adverse impact on significant wildlife habitat. The DRB will consider available information and inventories of wildlife habitat, and may consult with the Vermont Fish & Wildlife Department or other experts to determine the presence of various habitats and to ensure that development is designed to minimize undue adverse impacts (e.g., impacts that would significantly reduce the ability of the particular habitat to continue supporting particular wildlife species that rely on that habitat for specific functions). Conditions may be imposed as appropriate with regard to development envelopes, siting, setbacks, and buffers that are adequate to protect that habitat from the impacts of development and associated activities
- H. **Flood Hazard Area Development Standards.** In addition to applicable general and specific standards set forth above, the DRB may impose specific conditions or require project modifications for development within the Flood Hazard Area Overlay District in accordance with the Elmore Flood Hazard Regulations, as most recently amended.

## ARTICLE VI. Subdivision Review

### Section 6.1 Applicability

- A. Prior to any subdivision of land, construction, or site preparation for development; any contract for the sale of all or any part of the land or structures involved; the issuance of a permit for the erection of any building in a proposed subdivision; and before any subdivision plat may be filed with the Town Clerk, the subdivider or authorized agent shall apply for and secure approval of the proposed subdivision in accordance with the procedures set forth in these regulations.
- B. **Administrative Review of First Subdivided Lot.** Notwithstanding subsection (B) above, any parcel in existence prior to April 11, 2000 may be subdivided into not more than 2 lots with approval from the Zoning Administrator, in accordance with Section 8.1. The creation of an additional lot (three or greater) from any parcel in existence prior to April 11, 2000 shall require DRB approval and shall be subject to all applicable provisions of these regulations.

### Section 6.2 Waivers

- A. In accordance with the Act [§4418(2)], the Development Review Board may waive, subject to appropriate conditions, either:
  - a. sketch plan application requirements set out in Section 6.4 and/or final subdivision plat requirements under Section 6; or
  - b. development review standards set forth in Article VII.
- B. In the case of (a), the applicant shall identify the specific requirements for which waiver is requested and state those that are not applicable or cannot be met and are therefore the basis for the requested waiver. In the case of (b), the applicant must establish that due to the special circumstances of a particular site, the requirements of the development review standards for which waiver is sought will create an unreasonable hardship or adversely affect significant natural resources defined in Section 7.3; the Purpose of the Zoning District as defined in Tables 2.1- 2.8 and/or the Town Plan; rural character; or aesthetics.
- C. The request for a waiver shall be submitted in writing by the applicant with the subdivision application, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the Development Review Board to reach a decision. The Board may grant or deny waivers, in whole or in part. In granting a waiver, the DRB may attach reasonable conditions to secure the objectives of the standards being waived, including, but not limited to, mitigation by design, screening, or other remedy.

### Section 6.3 Boundary Line Adjustments

- A. **Boundary Line Adjustments.** Adjustment of boundary lines between adjacent lots shall not be deemed a subdivision if the Zoning Administrator determines that the proposed adjustment: meets *all* of the following criteria:
  - a. is a minor realignment that does not substantially change the nature of any previous subdivision;
  - b. does not create any new lot as a result of the adjustment;
  - c. will not adversely impact access to any parcel;
  - d. will not adversely impact any significant natural resource or result in fragmentation of agricultural land or identified fragile natural feature;
  - e. will not result in the development on any portion of a parcel that has been designated as open space as the result of a prior municipal permit, or allow for the acreage of any open space parcel to be applied to the maximum density or minimum lot size for another

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- parcel; and
  - f. will not create a nonconforming lot(s);
- B. In determining that a boundary adjustments is not a subdivision under this section, the Zoning Administrator shall issue a zoning permit for the adjustment in accordance with Section 8.1 of these bylaws. All boundary adjustments shall be surveyed recorded in accordance with Section 8.6 (F). They mylar shall signed by the Zoning Administrator and shall include the following statement:

“This lot line adjustment has been approved pursuant to Section 6.3 of the Town of Elmore Zoning and Subdivision Regulations.” Approval of this boundary adjustment does not constitute creation of a separate parcel or lot of land. It simply adjusts the physical location of the common boundary of the adjoining parcels or lots. Any future subdivision of these parcels or lots must be reviewed and approved in accordance with Article VI of these Regulations.”

## Section 6.4 Sketch Plan Review

- A. **Sketch Plan Application.** In accordance with the Act [§4418(2)], any subdivider of land shall submit a sketch plan of the proposed subdivision and/or boundary adjustment to the Zoning Administrator prior to submitting an application for subdivision approval. The sketch plan shall include the following information:
- a. Name and Address of the owner of record and applicant.
  - b. Name of owners of record of abutting properties; and, proof of notification of all abutting property owners (see Section 8.6(C)).
  - c. Date, true north arrow and scale (numerical and graphic), and date and number of sketch plan revision, if any.
  - d. Boundaries and area of all contiguous land belonging to the owner of record, including land separated by a public right-of-way.
  - e. The location of existing zoning boundaries.
  - f. A general indication of the boundaries of the following features:
    - i. Rivers, streams, and wetlands and associated buffer areas in accordance with Section 3.12;
    - ii. the Flood Hazard Overlay District in Accordance with Table 2.7;
    - iii. Steep slopes (slopes between 15% and 20%) and Extremely Steep Slopes (slopes in excess of 20%)=
    - iv. prime and statewide agricultural soils and other open farmland;
    - v. Forestland;
    - vi. Significant wildlife habitat; and
    - vii. prominent knolls and ridgelines.
  - g. Other significant physical features, including but not limited to current land uses; existing vegetation including forest type; structures; walls and fence lines; driveways, access roads and utility corridors; historic sites and structures; and drainage patterns.
  - h. Existing and proposed layout of property lines; type and location of existing and proposed restrictions on land, such as easements and covenants.
  - i. The location of proposed development, including building envelopes, streets, driveways, utilities, related site improvements, and the location of proposed open space, land to be held in common and/or other features to be preserved.
  - j. Location map, showing relation of proposed subdivision to adjacent property, uses, and surrounding area.
- B. **Initial Meeting.** Upon receipt of the sketch plan from the Zoning Administrator, the Development Review Board shall schedule an initial meeting to review the sketch plan and accompanying information for compliance with these regulations. The subdivider, or his/her duly authorized representative, shall attend the meeting of the Development Review Board on the sketch plan to discuss the requirements of these regulations. The initial meeting shall include a mandatory site visit to verify the location of proposed development, including building envelopes,

roads, driveways, utilities and improvements, the location of Natural Resources and any proposed open space, and to evaluate conformity of the application with the standards of these bylaws and Town Plan.

- C. **Action on Sketch Plan.** The Development Review Board shall review the sketch plan and accompanying information and shall determine whether the plan conforms to, or would be in conflict with, the Planning and Design Standards set forth in Article IV, the Town Plan, Zoning Bylaw, and/or any other regulation currently in effect. The Development Review Board may make specific recommendations for changes in subsequent submissions and may request additional information to be submitted with the application, including special studies and/or supporting documentation as appropriate. The Board also may provide specific recommendations as to the size, location and configuration of the proposed building envelope to ensure compliance with all standards found in Article VII. Sketch Plan approval does not assure subdivision plat approval in accordance with Section 6.5.
- D. All written recommendations and requests shall be sent to the applicant within 45 days of the expiration of the meeting, or any continuation thereof. For the purposes of this section, official minutes of the Development Review Board meeting may satisfy the requirement for written recommendations and requests.

## Section 6.5 Final Subdivision Review Process

- A. **Application.** Within six (6) months of the Development Review Board completes its review of the sketch plan and provides written recommendations and requests, the subdivider shall submit an application and fee to the Zoning Administrator for final subdivision plat approval. Failure to do so within the six months shall require resubmission of the sketch plan to the Development Review Board. The application and associated subdivision plat shall:
  - a. contain those items set forth for Sketch Plan Review in Section 6.4(A) of these regulations plus any other items that may be required by the Development Review Board;
  - b. include proof of notification of abutting landowners in accordance with Section 8.6(C) (proof of notification of the submission of an application for subdivision review is required in addition to proof of notification of the submission of a sketch plan under Section 6.4);
  - c. conform to the layout shown on the sketch plan except as amended as a result of recommendations made by the Development Review Board; and
  - d. any additional information specifically requested by the Board as a result of sketch plan review.
- B. **Public Hearing.** A public hearing to consider the proposed subdivision plat, warned in accordance with Section 8.6(C), shall be held by the Development Review Board at their earliest available regularly scheduled meeting after the date of submission. The subdivider or his duly authorized representative shall attend the hearing to discuss the preliminary plat and associated information and materials. During the course of the hearing, the Board shall provide each person wishing to receive party status (i.e., the right to participate and appeal) the opportunity to demonstrate that they meet one of the definitions of “Interested Person.” The Board shall also keep a written record of the name, address, and participation of each of these persons.
- C. **Development Review Board Decision.** The Development Review Board shall, within 45 days of the public hearing or any continuation thereof, approve, modify and approve, or disapprove such plat. Failure to so act within such 45 days shall be deemed approval. Development Review Board findings, conditions of approval, or the justification for any required modification or for disapproval, and provisions for appeal under Section 8.3, shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any interested parties appearing at the public hearing within said 45 day period.
- D. **Phasing.** As a condition of approval, the Development Review Board may require subsequent

development of the subdivided lots to be divided into two or more phases to be developed at separate times to assure the orderly development of the subdivision and coordination with the planned and orderly growth of the Town as set forth in the Town Plan and any capital budget and program currently in effect.

- E. **Effect of Final Approval.** The approval by the Development Review Board of a final subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, utilities, park, recreational area or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard in accordance with applicable State laws.
- F. **Revisions to Approved Plats.** No changes, erasures, modifications, or revisions shall be made on any subdivision plat after final approval, including any amendment or revision of a condition of final plat approval, unless said plat as modified is first resubmitted to the Development Review Board and approved in accordance with the procedures set forth herein.

## Section 6.6 Final Subdivision Plat Requirements

- A. **Final Subdivision Plat.** The final plat shall consist of one (1) Mylar original and two (2) copies of a complete survey of the subdivision tract, on one or more sheets, prepared by a licensed land surveyor. The size and materials of the final plat shall meet all applicable requirements of the Elmore Town Clerk. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plat for a major subdivision shall conform to the sketch plan as approved by the Development Review Board, unless modified to address specific recommendations or requests of the Board resulting from sketch plan review. The Final Subdivision Plat shall show:
  - a. A notation stating: “This plat is subject to the terms and conditions of approval by the Elmore Development Review Board in accordance with the Elmore Subdivision Regulations, granted (date of final approval),” and shall contain signature line for endorsement by the Development Review Board Chair.
  - b. Proposed subdivision name or identifying title, the name and address of the owner of record and subdivider, the name, license number and seal of the licensed land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks, and scale, date, true north and grid north.
  - c. Street names and lines, trails, lots, reservations, easements and areas to be dedicated to public use.
  - d. Sufficient data acceptable to the Development Review Board to determine the location, bearing and length of every street line, lot line, boundary line, building envelopes and to reproduce such lines upon the ground. When practicable these should be tied to reference points previously established by a public authority. In instances involving the creation of one or more development lots from a large tract of land, in which one or more of the newly created lots will be of large acreage (e.g. 100+ acres) to be retained or transferred by the subdivider, the Development Review Board may waive the requirement that the large tract be surveyed in accordance with subsection (C).
  - e. Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
  - f. The location and boundaries of designated building envelopes.
  - g. The boundaries of all areas to be restricted from development, held in common or reserved as open space or conservation land, pursuant to the requirements of Article IV, with appropriate notation.
  - h. By proper designation on such plat, all public open space for which offers of cession are made by the subdivider and those spaces to be reserved by the owner.
  - i. The location of all the improvements referred to in Article IV as well as the location of all utility poles, underground lines, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision.
  - j. The location of monuments which shall be set at all corners and angle points of the boundaries of the subdivision and at all road intersections and points of tangency and

- such intermediate points as shall be required by the engineer.
  - k. (11) Any additional notations required by the Development Review Board which reference specific
  - l. conditions of subdivision approval to be included on the final plat.
- B. Supporting Documents.** The following supporting documents shall be submitted to the Development Review Board with the final plat, if applicable.
- a. A certificate of title showing the ownership of all property and easements to be dedicated to the Town and proposed deeds conveying property or easements to the Town.
  - b. A draft of all restrictions which will run with the land and become covenants, including copies of proposed deed restrictions, agreements or other documents showing the manner in which streets, open space and/or other commonly held lands or facilities are to be dedicated, reserved and maintained.
  - c. A certificate from a consulting engineer as to the satisfactory completion of all public improvements proposed by the applicant and/or required by the Development Review Board, or in lieu thereof, a performance bond or equivalent surety to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Selectboard that it is satisfied with either the bonding or surety company, or with security furnished by the subdivider.
  - d. A copy of association covenants and/or bylaws if a property or homeowners' association is being proposed.
  - e. Any other legal data necessary for the administration and enforcement of these regulations.
  - f. Any other documents required by the Development Review Board pursuant to sketch plan review.
- C. Waiver for Large Parcels.** Subdivisions involving especially large parcels, such as the subdivision of a single ten acre lot from an existing 200 acre parcel, may, at the discretion of the Development Review Board, be exempted from one or more of the above requirements, such as the requirement that the boundaries of the large parcel to be retained by the landowner be surveyed. In granting such an exemption, the Development Review Board shall require that the portion of the subdivision involving newly created boundary lines (e.g. the ten acre lot in the preceding example) comply with these requirements, and that a surveyed plat for that portion of the larger subdivision be recorded in the land records.

## Section 6.7 Conservation Subdivisions

- A. Purpose.** The purpose of these Conservation Subdivisions provisions is to balance landowners' ability in developing their property with the conservation of natural resources, working farm and forest lands, and open space. Conservation Subdivisions encourage innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:
- a. Increase density, reduce lot size and/or facilitate the adequate and economical provision of driveways, roads and utilities in order to provide affordable housing;
  - b. Cluster residential development to maintain open space;
  - c. Protect significant natural, cultural or scenic features as identified in the Elmore Town Plan, the purpose of the zoning district, or through site investigation.
  - d. To enable owners of working farm and forest land to create small lots for their children/heirs, to provide employee housing, and/or to sell while retaining ownership of much of the balance of their property; and/or
  - e. To provide an alternative to fragmentation of land into residential lots that are "too big to mow but too small to plow" while retaining an overall development density consistent with the provisions of the zoning district.

The process for laying out a conservation subdivision includes the following five steps: 1) determining how much could be built based on the underlying zoning, 2) identifying key

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resources to be protected, 3) clustering home sites on remaining land (i.e., land without the key resources), 4) connecting roads and trails, and 5) drawing lot lines. These Regulations utilize Section 4417 (Planned Unit Development) of the Act [4417] to enable conservation subdivisions.

## B. Applicability:

- a. Conservation subdivisions are prohibited in the ***Forest District and Undeveloped Shoreland District***.
- b. In the Village, Rural-East, Rural-West and Developed Shoreland Districts, Conservation Subdivisions are allowed for any subdivision. Conservation Subdivision shall be required in the following circumstances:
  - i. When more than sixty (60) percent of the parcel to be developed is comprised of Natural Resources identified in Section 7.3; or
  - ii. When a proposed subdivision or subdivision of a parcel or contiguous parcels of land, owned or controlled by the applicant, results in ten (10) or more lots/units within any continuous period of ten (10) years;
  - iii.

C. **Review Process.** Applications for a Conservation Subdivision shall be reviewed pursuant to the procedures for subdivision outlined in Section 6.4 and 6.5, and shall meet all applicable plat requirements found in Section. A conservation subdivision may include any permitted or conditional uses in the District in which it is located, subject to all required reviews. Where a proposed use or structure within the conservation subdivision requires conditional use, or other review under these regulations, efforts will be made to hold the review concurrently. Any subsequent zoning permit or conditional use approval within an approved conservation subdivision shall incorporate all applicable conditions of the conservation subdivision approval

D. **Calculation of Density:** The total number of lots or units within a Conservation Subdivision is referred to as the “density.” The total density in a conservation subdivision shall be calculated using the following formula:

*Step 1: Determine the “total parcel area.”*

*Step 2: Calculate the “resource constraints” by multiplying the acreage of each constraint listed below its numerical “density factors.”*

- *Wetlands: multiply acreage of Class II or Class I wetlands by 0.95 (may utilize State or national wetlands inventory if delineations are not available)*
- *100-Year Floodplain or River Corridors: Multiply acreage by 0.95 (may utilize FEMA FIRM Maps and ANR River Corridor Maps if delineations are not available)*
- *Land above 1,200’ msl: Multiply acreage of Land above 1,200 by 0.95*
- *Extremely Steep Slopes (grade more than 20%): multiply acreage by 0.95 (may utilize statewide estimates or Lidar data if survey is not available)*
- *Steep slope (grade between 15% and 20%): multiply acreage by 0.50 (may utilize statewide estimates or Lidar data if survey is not available)*
- *Prime or Statewide Agricultural Soils: multiple acreage by 0.40 (may use NRCS maps)*
- *Class I Productive Forest Soil: Multiple acreage by 0.40 (may use NRCS maps)*
- *Significant wildlife habitat: Multiply acreage by 0.40 (may use VT Fish and Wildlife Maps and Data)*

*Note: If a proportion of the parcel includes more than one resource subject to a density factor above, the area shall be subject to the most restrictive density factor only.*

*Step 3: Deduct the “resource constrains” from the total parcel area to determine the “adjusted parcel area.”*

*Step 4: Divide the “adjusted parcel area” by the minimum lot size for the district or districts in which the parcel is located to determine “base density”*

*The formula below is a simplified depiction of these steps:*

$$\begin{aligned} \text{total parcel area} - \text{resource constrains} &= \text{adjusted parcel area} \\ \text{adjusted parcel area} / \text{minimum lot size} &= \text{total density} \end{aligned}$$

*If the calculation above results in a fractional number, it will be **rounded down**.*

- E. **Open Space:** All conservation subdivisions shall be designed to contain open space, in accordance with the following:
- a. In all districts except the Village District, at least 50% of the total land area within the conservation subdivision shall be designated as open space. Sewage disposal areas, utility and road rights-of-way or easements, access and parking areas shall not be counted toward this minimum.
  - b. Open space land shall be configured to provide for large contiguous open space lands on the parcel. Narrow strips of land with a length-to-width ration of less than 4:1 or less than 75 feet in width shall not be counted toward the 50% minimum, unless necessary to connect significant areas, such as significant wildlife habitat, to protect linear resources such streams, to provide public access trails to recreational areas, or to provide reserve agricultural or forestry/silvicultural access to farm and forest land.
  - c. The layout of the conservation subdivision, including building sites, roads and driveways, and utilities shall be designed to maximize protection of Natural Resources identified in Section 7.3 to the greatest degree possible. “Fragile Areas” identified in Section 7.3(A) shall be removed from the building envelope of any lot within the conservation subdivision. The layout of the conservation subdivision shall be consistent with all standards related to Farmland, Forestland, Steep Slopes, Significant Wildlife Habitat, and Prominent Knolls and Ridgelines.
  - d. Designation, Configuration, and Ownership of Open Space shall be in accordance with the provisions in Section 7.4.
  - e. There is no minimum open space requirement in the Village District. Conservation Subdivisions in the Village District should integrate natural resources into the Village development pattern, for example, by providing garden space on farmland or a sledding hill on steep slopes, in accordance with Section 7.3(F)
- F. **District Standards.** In order to cluster development and minimize impacts on the Natural Resources listed in Section 7.3, the District Standards found in Section 2 of these Regulations may be modified in accordance with the following:
- a. Minimum lot sizes and frontage may be modified and/or reduced, provided that the total number of lots does not exceed those allowed in the Density section above. Lot sizes within the conservation subdivision may vary. For example, a conservation subdivision may contain small lots for individual home sites offset by large lots for continued agricultural or forest management.
  - b. Setbacks may be modified within the interior of the conservation subdivision. The minimum setback requirements for the District in which the conservation subdivision is located shall apply to the periphery of the development.
  - c. Subject to all reviews and standards required by the underlying zoning district, the total number of units within a multi-family structure may be increased from four (4) to six (6).
  - d. Lot coverage within a conservation subdivision shall be calculated based on the total coverage of the conservation subdivision, including open space. Individual lots or portions of the conservation subdivision may exceed the allowed maximum lot coverage, provided there is an offset by a lesser lot coverage in other portions of the conservation subdivision.
  - e. Maximum height shall not be exceeded
  - f. No variation from the standards of any Overlay District or any Zoning District Supplemental Development Standard shall be allowed



## ARTICLE VII. Subdivision Planning and Design Standards

### Section 7.1 Evaluation and Application of Standards

The Development Review Board shall evaluate any application for subdivision approval in accordance with the standards set forth below. The Board may require the subdivider to submit data addressing impacts related to the following standards. In light of findings made on these standards, the Board may require modification and phasing of the proposed subdivision or measures to avoid or mitigate any adverse impacts.

### Section 7.2 General Standards

- A. **Character of the Land.** Prior to the approval of a subdivision plat, the subdivider has the responsibility to satisfy the Development Review Board that the land to be subdivided is of such a character that it can be used for the intended purpose and density of use without undue adverse impact on public health and safety, the environment, neighboring properties, or the rural character and natural beauty of the community.
- B. **Conformance with the Town Plan and Other Regulations.** Subdivision plats shall conform to the Town Plan and Zoning Bylaw, capital budget and program, and all other bylaws, ordinances and regulations of the Town of Elmore currently in effect.
- C. **Lot Layout.** The layout of lots shall conform to the Zoning District Dimensional Standards found in Article II of these Regulations, unless modified as part of a Conservation Subdivision in accordance with Section 6.7. The following standards shall apply to all subdivisions:
  - a. Corner Lots. Corner lots shall have sufficient width to permit a front yard setback on each street.
  - b. Side Lots. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
  - c. Lot Shape. Lots with irregular shapes (curves, jogs, dog-legs, etc.) should not be created unless warranted by conditions of topography, the location of natural features or existing road conditions.
  - d. Lot Size and Density. Lot sizes and densities in the Zoning Bylaw are a minimum standard; lower densities and/or larger lot sizes may be required by the Development Review Board based on prevailing site conditions and the potential impact on fragile natural resources, including floodplain, wetlands, areas of steep slope, significant wildlife habitat and primary agricultural soils. Densities may be increased by the Board only for Conservation Subdivisions under Section 6.7.
- D. **Monuments and Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.
- E. **Establishment of Building Envelopes.** The Development Review Board shall require the designation of building envelopes to limit the location of structures and associated site development to one or more portions of a lot. The size and shape of each building envelope shall be established in accordance with the standards set forth in these regulations. The Development Review Board may require the identification of specific building footprints if, in their judgement, such information is required to meet the standards set forth in these regulations.
- F. **Landscaping and Screening.**

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- a. The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the Development Review Board, may be required in the following instances.
    - i. to preserve existing specimen trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical significant wildlife habitat, and to maximize the preservation and establishment of indigenous plant species;
    - ii. to provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality and/or other natural features. At a minimum, a 50 feet deep buffer shall be established from the mean water level of any stream or lake and/or the delineated boundary of an identified wetland. Subdivisions in the Developed Shoreline District and Undeveloped Shoreline District must at minimum comply with the Vegetation Protection Standards outlined in Tables 2.5(F) and/or 2.6(F).;
    - iii. to provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen the visual impacts of development;
    - iv. to establish street trees along public or private roads to establish a canopy effect and/or maintain a pedestrian scale where the Board deems it appropriate, including within the Village District. Adequate setbacks and site grading should be provided to ensure that the plantings are not adversely affected by traffic and road salt, and use of salt tolerate cultivars may be required. When required, street trees should be planted at regular intervals of no more than fifty feet
    - v. to encourage energy efficient site design by providing shade and strategic cooling during summer months.
    - vi. to establish a naturalized, vegetative barrier between incompatible land uses;
  - b. To the greatest degree practicable, the standards should be met by preserving existing trees and other vegetation.
  - c. In lieu of other landscaping requirements in above, the Development Review Board may approve landscaping of equivalent value for the purpose of improving or restoring wildlife habitat, wetlands restoration and protection, stream bank stabilization and restoration, or similar improvement. Plans for such improvements shall be developed by an appropriate professional. Plantings associated with Low Impact Development stormwater treatment practices may also be used to meet these landscaping requirements.
  - d. Planting Specifications: Cultivars shall be suitable for the climatic and other conditions in which they will be used (utility lines, salt, air pollution, etc.) and shall be selected using the criteria outlined in the most recent version of the “Recommended Trees for Vermont Communities: A guide to Selecting and Purchasing Street, Park, and Landscape Trees,” published by the Vermont Urban and Community Forestry Program. Alternative cultivars may be utilized based on the recommendations of a certified horticulturalist, landscape architect, or State Extension Service Master Gardener.
  - e. Additional conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials.
  - f. In the event that forest management or other site clearing occurs prior to the submission of an application, the Board may require re-vegetation/re-forestation of the site, or may limit development to the non-impacted portion of the property.
  - g. A three (3) year landscaping plan, and/or bond or other surety to ensure installation and maintenance may be required as appropriate and incorporated as a condition to approval
- G. Energy Conservation.** To conserve energy, all subdivisions shall use the least amount of area for road-ways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (e.g., Conservation Subdivision) should be considered wherever feasible, desirable and allowed. The siting of buildings should maximize solar access where feasible, and landscaping should be effectively used to provide wind barriers and reduce heat loss or gain. To the degree practicable based on existing vegetation and topography, solar orientation (east-west axis of the building within 15 degrees of due east-west) should be considered within a subdivision so that each lot receives optimum exposure

- H. **Street Lighting.** Street lighting is not required in any District. If street lighting is provided, it shall be the minimum required for safety and security, and shall not adversely affect neighboring properties and uses or the quality of the night sky. The maximum height of lighting fixtures or supporting structures shall not exceed twenty [20] feet from grade. Lighting fixtures shall be designed to direct light downward and shall have a cut off angle of 90 degrees or less. Fixtures with a cut off angle of 60 degrees or less are encouraged to prevent skyglow. The use of energy efficient lighting, such as LED fixtures, is strongly encouraged. Additional conditions may be imposed as appropriate with regard to the type, height, and placement of exterior lighting fixtures. A lighting plan shall be required when an area greater than 5,000 square feet is proposed to be illuminated.
- I. **Disclosure of Subsequent Development Plans.** Whenever a subdivider submits a proposal for development on a minor portion of a parcel the Board may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.
- J. **District Settlement Patterns.** Subdivisions shall be designed to achieve the purpose and desired settlement pattern of the zoning district within which they are located, as defined in Article II. Table 2.1 - Table 2.8, of these Regulations.

## Section 7.3 Protection of Natural Resources

- A. **Fragile Features.** Subdivision boundaries, lot layouts, driveways, roads, utilities, and building envelopes shall be located and configured to avoid any adverse impact to fragile features. For the purposes of these regulations, fragile features shall include rivers streams and wetlands in accordance with Section 3.12, the Flood Hazard Area Overlay District in accordance with Table 2.7, and extremely steep slopes (slopes in excess of 20%). Methods for avoiding such adverse impacts include but may not be limited to the following:
  - a. Building envelopes shall be located and sized to exclude these features.
  - b. Undisturbed buffer areas sufficient in width to protect the identified feature(s) shall be designated.
  - c. Roads, Driveways and Utility Corridors shall be located to exclude these features. Where a Road, Driveway, or Utility Corridor must cross a river, stream, or wetland, the impact of the crossing shall be the minimum necessary, and may only be approved if the Development Review Board determines that there are no practical alternatives, or that all practical alternatives will result in greater negative impacts to natural resources.
  - d. Identified features and adjacent buffer lands should be designated as open space.
- B. **Farmland.** Subdivision boundaries, lot layout and building envelopes shall be located and configured to avoid adverse impacts to primary agricultural soils and other open farm fields. Methods for avoiding such adverse impacts include but may not be limited to the following:
  - a. Building envelopes shall be located at field and orchard edges or, in the event that no other land is practical for development, on the least fertile soils in order to minimize the use of productive agricultural land, impacts on existing farm operations, and disruption to the scenic qualities of the site.
  - b. Building envelopes and lot lines shall be located and configured so that farmland is not fragmented into pieces that are too small or irregularly shaped to be farmed in the future. Preferably, land that is intended for future agriculture should be within one or more parcels that would be eligible to enroll in the current use program.
  - c. Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
  - d. Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.

- e. The subdivision shall be configured to reserve agricultural access (for farm equipment, livestock, etc.) to land outside building envelopes that may be farmed in the future.
  - f. Intact parcels of productive farmland shall be designated as open space; conservation easements, limitations on further subdivision, or comparable site protection mechanisms may be required.
  - g. All new building lots shall be subject covenants and/or deed language acknowledging that the subdivision is located in an area with active agricultural/forestry operations and prohibiting future homeowners from bringing nuisance suits against existing operations and future agricultural and forestry operations that follow applicable state regulations.
- C. **Forestland.** When the property to be subdivided includes forestland, the applicant must design the subdivision to facilitate future silviculture or conservation use of the land outside the building envelope. If an applicant undertakes forest management or harvesting activities designed as pre-development site preparation (ex: clearing, road construction, etc.) prior to subdivision approval, the Development Review Board may require the site or portions of the site to be restored or re-vegetated to comply with the standards of these regulations. To the greatest extent feasible, the applicant must
- a. Avoid placing development, including building sites, utilities, roads, and driveways on Site Class I soils, and locate development on Site Class II or III soils only when there is no practical alternative.
  - b. Configure the subdivision to allow for ongoing forest management of the parcel after subdivision. Lot lines, building envelopes, access driveways or roads, and utility corridors shall be laid out so that forest is not fragmented into pieces that are too small or irregularly shaped to be managed for maple production, timber harvesting, wildlife habitat, and other forest uses.
  - c. In order to ensure the continued forestry/ silvicultural use of the forested parcel, locate building envelopes on the land that is the least well-suited for maple production, timber harvesting, wildlife habitat, and other forest uses,
  - d. Preserve distinct timber stands and access to land outside building envelopes for sugaring, timber harvesting equipment, recreational trails, and similar activities as appropriate to the subject property. Preferably, land that is intended for future silviculture use should be within one or more parcels that would be eligible to enroll in the current use program.
  - e. Locate and configure building envelopes and lot lines to retain contiguous blocks of forest land, particularly when they connect to similar resources on adjoining properties.
  - f. Intact parcels of forestland shall be designated as open space; conservation easements, limitations on further subdivision, or comparable site protection mechanisms may be required.
  - g. All new building lots shall be subject covenants and/or deed language acknowledging that the subdivision is located in an area with active agricultural/forestry operations and prohibiting future homeowners from bringing nuisance suits against existing operations and future agricultural and forestry operations that follow applicable state regulations.
- D. **Steep Slopes, Significant Wildlife Habitat, and Prominent Knolls and Ridgelines.** Subdivision boundaries, lot layout and building envelopes shall be located and configured to avoid adverse impacts to steep slopes (slopes between 15% and 20% gradient), significant wildlife habitat, and prominent knolls and ridgelines. Methods for avoiding such adverse impacts include but may not be limited to the following.
- a. **Prominent Knolls and Ridgelines.** Building envelopes, roads, driveways, and utilities shall be configured so that structures are located down-grade of ridgelines and prominent knolls and is designed so that the height of proposed structures will not exceed the elevation of any adjacent ridgeline or knoll
  - b. **Significant Wildlife Habitat.** Subdivision will not result in an undue adverse impact on significant wildlife habitat. The DRB will consider available information and inventories of wildlife habitat, and may consult with the Vermont Fish & Wildlife Department or other experts to determine the presence of various habitats and to

ensure that development is designed to minimize undue adverse impacts (e.g., impacts that would significantly reduce the ability of the particular habitat to continue supporting particular wildlife species that rely on that habitat for specific functions). Conditions may be imposed as appropriate with regard to development envelopes, siting, setbacks, and buffers that are adequate to protect that habitat from the impacts of development and associated activities. Subdivider may be required to develop and maintain management plans and/or establish appropriate buffers to protect significant wildlife habitat.

- c. **Steep Slopes.** Development, including driveways, roads, utilities, and building envelopes, generally shall not take place on slope gradients in excess of 15%. The DRB may approve limited site improvements necessary to facilitate development on contiguous land less than 20% gradient may be permitted, subject to the requirements of Section 3.4
  - d. Identified features should be designated as open space
- E. **Subdivision in Village District.** Within the Village District, the Development Review Board may approve minor modifications to the Standards in Subsections 4.3B, C, and D above in order to integrate the resource into the Village development pattern, for example, by providing garden space on farm land or a sledding hill on steep slopes. Such features may be open to residents of the subdivision, or the public at large, at the discretion of the subdivider, and may be contained in commonly owned or privately-owned open space, per the Standards in Section 7.4 below.
- F. **Subdivision in the Developed Shoreland and Undeveloped Shoreland Districts.** In addition to the standards above, all subdivisions in the Developed Shoreland District and Undeveloped Shoreland District shall be configured to minimize impacts to the shoreland area, and shall at minimum meet the Supplemental Development Standards and Vegetation Protection Standards outlined for those Districts in Article II.

## Section 7.4 Open Space and Common Land

- A. **Purpose.** Subdivisions shall be designed for the protection of natural resources outlined in Section 4.3 above.
- B. **Designation and Configuration of Open Space.** Provision shall be made for open space. The location, size and shape of lands set aside as open space shall be approved by the Development Review Board, in accordance with the following:
- 1. Open space land shall include and provide for the protection of natural resources outlined in Section 7.3 above, recreation areas and facilities, including Lake Access (where applicable) trails, and historic resources.
  - 2. The configuration of the open space land and the covenants governing its usage shall reflect the purpose of the open land and shall be suitable for its intended use.
  - 3. Open space land shall be configured to provide for large contiguous open space lands on the parcel. Fragmentation of open space land shall be avoided to the greatest extent possible, for example,
    - a. by siting new driveways, private roads and utility corridors to share existing rights-of-way or following existing linear features such as roads, tree lines, stone walls, fence lines, or fields edge; and/or
    - b. by clustering buildings and structures near exiting development and roads.
  - 4. Narrow strips of open space land are discouraged, except when necessary to connect significant areas, such as significant wildlife habitat, or when designed to protect linear resources such streams or trails.
  - 5. Provisions should be made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans for forests, significant wildlife habitat, and shorelands may be required by the Board as appropriate. Areas preserved for agricultural or forestry use should be of a size that retains their eligibility for state and town tax abatement programs.

6. Open space shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels
  7. Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted toward the minimum open space requirement in a conservation subdivision, and shall in no way disrupt or detract from the values for which the open space is to be protected.
- C. **Ownership of Open Space.** Open space may be set aside as common land, as a separate undeveloped lot, or as a portion of a single lot, outside of the building envelope, to be held in private ownership. The ownership type shall be consistent with the best means of maintaining or managing the resources on the site. In general, common ownership is most appropriate for open space intended primarily for recreation, lake access, scenic preservation, and/or passive management, while private ownership of open space is most appropriate for open space that will be actively managed for agriculture and forestry.
1. **Common Open Space.** The following provisions shall apply to commonly owned open space lands:
    - a. Land held in common for the preservation and maintenance of open space may be held as one or more parcels under separate ownership from contiguous parcels, and shall be subject to appropriate deed restrictions
    - b. Common open space land may be used for water supply and/or septic waste disposal, either common or individual, provided that adequate control over the use of the land for these purposes is retained by the party or parties responsible for the maintenance of these facilities, and that this use will in no way disrupt or detract from the values for which the open space is to be protected.
    - c. Portions of open space may be dedicated for recreational and community uses such as trails, community garden space, beach access, sledding hills, ball fields, etc., provided that no permanent structures are erected and the use will in no way disrupt or detract from the values for which the open space is to be protected.
  2. **Privately Owned Open Space.** In order to create larger lots for agricultural, forestry or conservation purposes, open space may be retained in private ownership rather than as common land. Such privately owned open space shall provide that:
    - a. All development (if any) is restricted to a designated building envelope within which development may occur subject, to the use and dimensional standards of the Zoning District.
    - b. The remainder of each lot is designated open space and is restricted through permanent deed restriction or easement from all development except sewage disposal, water supply, agriculture, forestry, wildlife management and passive recreation.
    - c. Privately owned open space may be used for water supply and/or septic waste disposal, either common or individual, provided that adequate control over the use of the land for these purposes is retained by the party or parties responsible for the maintenance of these facilities, and that this use will in no way disrupt or detract from the values for which the open space is to be protected.
- D. **Legal Requirements.** To ensure that open space and common land is maintained for its intended purposes, the Development Review Board shall determine that appropriate legal mechanisms are in place. To this end, open space may be dedicated, either in fee or through a conservation easement approved by the Board, to the Town, a community association comprising all of the present and future owners of lots in the subdivision, or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of applicant and subsequent land owners.

## Section 7.5 Community Services and Facilities

- A. **Public Facilities and Services.** The proposed subdivision will not create an undue burden on public facilities or create an unreasonable demand for public services. The Development Review Board will consider whether the anticipated tax return from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development, and whether the proposed development will place an unreasonable burden on the ability of local governmental units to provide municipal, governmental, or educational services and facilities. A fiscal impact analysis and/or the phasing of development in accordance with a duly adopted capital budget and program may be required as appropriate, the cost of which to be borne by the applicant.
- B. **Fire Protection Facilities.** Adequate water storage or distribution facilities for fire protection within the subdivision shall be provided to the satisfaction of the Development Review Board. If the subdivision is greater than one (1) road mile from an existing dry hydrant, or where the DRB otherwise determines that existing water sources are inadequate for firefighting, the DRB may require the developer to install or fund the installation of a dry hydrant and/or fire pond. To assist the DRB in determining the adequacy of fire protection facilities, the applicant shall consult with the Elmore Fire Department. Dry hydrants and/or fire ponds required under this section shall be installed and maintained by the applicant in accordance with ANR/EPA guidelines. All dry hydrants and fire ponds must be installed to the specifications of the Elmore Fire Department. Fire ponds and dry hydrants shall be accessible for use in emergencies on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the State or National Wetland Inventory, unless approved by the Army Corps of Engineers and the Vermont Agency of Natural Resources. As an alternative to a dry hydrant and/or fire pond, the applicant may install sprinkler systems meeting the standards of the National Fire Protection Association (NFPA 13, 13R, or 13D, as applicable).

## Section 7.6 Driveways, Roads and Pedestrian Access

- A. **Applicability of Road Standards.** The standards contained herein shall apply to all proposed public roads and to private roads serving four or more lots. In addition, these standards may be applied to driveways when the Development Review Board determines such standards are necessary to provide suitable access to, or accommodate, anticipated future subdivision. Acceptance of private roads by the Town is subject to the approval of the Selectboard pursuant to state law for the laying out of public rights-of-way. Construction of a road(s) to these standards in no way ensures such acceptance.
- B. **Traffic on Affected Roads.** Traffic to be generated by the proposed subdivision will not create unreasonable traffic congestion or cause unsafe conditions on public roads in the vicinity of the subdivision. The Development Review Board may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency, the cost of which to be borne by the applicant. The implementation of mitigation, including road improvements, necessitated by the subdivision shall be the responsibility of the applicant.
- C. **Upgrades to Existing Roads.** Where an existing public or private road is inadequate or unsafe, the Development Review Board may require the subdivider to upgrade the access road to the extent necessary to serve additional traffic resulting from the subdivision and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where the Town Plan or duly adopted capital budget and program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. In the case of subdivisions requiring construction of new roads, any existing road that provides either frontage to new lots or access to new roads shall meet these standards. Where a subdivision requires expenditures by

the Town to improve existing road(s) to conform to these standards, the Development Review Board may disapprove such subdivision until the Selectboard shall certify that funds for the improvements have been ensured. The subdivider may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.

- D. **Design Standards for New & Improved Roads.** All roads serving proposed subdivisions shall be designed in accordance with the Elmore road policy or ordinance adopted and administered by the Selectboard, and shall generally conform to the dimensional and geometric design standards for local roads and streets contained within the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, dated October, 1997, or as subsequently amended. Minimum design standards are found in Section 3.1:
- E. **Road Layout and Natural Resources.** Roads shall be designed and laid out to avoid adverse impacts to natural, historic, cultural and scenic resources, and to enhance the vitality of village areas. Roads should follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines, and should avoid fragmentation of agricultural land and open fields. Techniques for the preservation of scenic views and cultural features should be employed for the construction and maintenance of roads within scenic or village areas, including but not limited to the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor.
- F. **Drainage and Storm Water.** A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas in accordance with Sections 3.1 and 3.10 of these regulations. Generally, roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the Vermont Better Roads Manual, as most recently amended.
- G. **Coordination with Adjoining Properties.** The arrangement of roads in the subdivision shall provide for the continuation of roads of adjoining subdivisions and for proper projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required of needed utilities and public services. The DRB may require the set aside of rights-of-way for future development on the lot or adjacent properties. Continuation for future development on the lot or adjacent properties should be required when it will better facilitate protection of the primary and secondary natural resources, as defined in Section 7.3. Where, in the opinion of the Development Review Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
- H. **Accesses & Intersections.** All road access shall be subject to the approval of the Vermont Agency of Transportation in the case of state highways and the Selectboard in the case of Town roads. Access to all lots created by subdivision of any such parcel and to all buildings or other land development located thereon shall be only from such permitted access road or driveway. A new or relocated road or driveway shall be located so that:
  - a. a safe sight stopping distance is provided, as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g., a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time);
  - b. it is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. Intersections creating centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted;
  - c. it intersects the existing road at an angle of between seventy (70) and ninety (90) degrees;

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- d. the intersection grade does not exceed plus or minus three-percent (3%)and;
  - e. no structure or planting is situated to impair corner visibility.
- I. **Access Management.** To better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of important travel corridors, and to avoid strip development, the following access management standards shall apply:
- a. Subdivision lots shall be served by shared driveways and/or internal development roads providing access to multiple lots. With the exception of accesses (curb-cuts) used solely for agricultural or forestry purposes, no lot in existence as of the effective date of these regulations may be served by more than one access. The Board may approve additional accesses in the event that:
    - i. the additional access is necessary to ensure vehicular and pedestrian safety; or
    - ii. the strict compliance with this standard would, due to the presence of one or more physical features (e.g., rivers and streams, steep slopes, wetlands), result in a less desirable site layout and design than would be possible with the allowance of an additional access; or
    - iii. a traffic management plan is developed and implemented which will improve vehicular and pedestrian safety and result in a traffic circulation and parking arrangement within the site that better achieves the standards set forth under Section 5.3 than would be possible with a single access.
  - b. If a subdivision has frontage on primary and secondary roads, access shall be from the secondary road unless the Board determines that topographic or traffic safety conditions make such an access unpractical.
  - c. Where extensions of new roads could provide future access to adjoining parcels, a right-of-way shall be provided. The creation of reserved strips shall not be permitted adjacent to a proposed road in such a manner as to deny access from adjacent property to such road.
- J. **Road Names and Signs.** Roads shall be named in accordance with the Elmore Road Naming Ordinance/Policy, if adopted, and shall have specific historic, cultural or geographical relevance. Said names shall be identified on signs designed and located in accordance with the Town policy, and shall be clearly depicted on the final plat.
- K. **Pedestrian Access.** The Development Review Board may require pedestrian rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses or public facilities. The Board may require, in order to facilitate pedestrian access from a subdivision to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.
- L. **Modification of Road Standards.** In the case of unusual topographic conditions or other circumstances which would make the strict adherence to these standards a substantial hardship, the Development Review Board may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards of these regulations. Any modification to length or grade standards shall require conditional use review in accordance with Section 3.1(G) and 3.1(H).
- M. **Legal Requirements.**
- a. Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under this bylaw, regardless of whether the proposed right-of way is intended to be accepted by the Town. In the event that the right-of-way is not intended for

acceptance by the Town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented.

- b. Documentation and assurance shall be provided that all proposed roads and rights-of-way will be adequately maintained either by the subdivider, a homeowners' association or through other legal mechanism. Such documentation shall be in a form approved by the Development Review Board and filed in the Elmore Land Records.

## Section 7.7 Water Supply, Wastewater Disposal, and Stormwater Management

- A. **Public and Municipal Systems:** For subdivisions that will connect to a public or municipal sewage disposal, water supply, or stormwater management system, applications for extensions and hookups shall be approved by the officers and agents entrusted with the care and superintendence of the municipal system. If the system will not meet the demand, the subdivider will provide a plan for upgrading the system to meet the expected demand and provide a bond or security (to the satisfaction of the Selectboard or Trustees) to cover all or part of the costs of the necessary improvements. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
- B. **Community Systems:** Community systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community systems may be required to be designed in such a way that they may eventually be connected to a municipal water supply system. Articles of Association or similar arrangements are required to address long-term care and maintenance of these systems by the users.
- C. **Water Supply.** If the proposed subdivision is to be serviced by new or upgraded wells, the applicant shall provide evidence of the location of all proposed wells and evidence that these locations will meet applicable State regulations. The issuance of a wastewater and potable water supply permit by the Vermont Department of Environmental Conservation assumes conformance with these rules. State water supply permits shall be obtained prior to recording the approved final plat in the Land Records.
- D. **Wastewater Disposal.** New wastewater systems shall meet the requirements of all applicable state regulations and standards. The issuance of a wastewater and potable water supply permit by the Vermont Department of Environmental Conservation assumes conformance with these rules. State wastewater permits shall be obtained prior to recording the approved final plat in the Land Records.
- E. **Stormwater Management.** Erosion control will be provided in accordance with the requirements of Section 3.4. All conditional uses shall provide appropriate measures to prevent stormwater runoff from adversely impacting nearby properties, public infrastructure, or downstream water bodies.
  - a. Any subdivision resulting in more than one-half [0.5] acres of new impervious surface, as measured cumulatively over any 5-year period, shall at minimum meet the Recharge (Rev) criteria and the Water Quality Volume (WQv) criteria, as defined in the Vermont Stormwater Management Manual. All stormwater management facilities shall be designed and constructed in accordance with the most recent standards for such facilities adopted by the State of Vermont, and shall include Low Impact Development techniques whenever possible.
  - b. All applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system and/or to utilize the Non-Structural Practices provided for in the most recent version of the Vermont Stormwater Management Manual. Examples of Low Impact Development Practices are provided in the Definitions Section. Applicants are also encouraged to refer to the Vermont Low Impact Development Guide for Residential and Small Sites for further guidance.

- c. Projects that require a State Stormwater discharge permit are exempted from the provisions of Sections 1-3 above. Applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system and/or to utilize the Non-Structural Practices provided for in the most recent version of the Vermont Stormwater Management Manual. The DRB approval shall be conditional upon the applicant submitting a copy of the State permit to the Zoning Administrator prior to the start of construction

### Section 7.8 Utilities

- A. **Location.** All utilities systems, existing and proposed, throughout the subdivision shall be shown on the final plat, and be located as follows:
  - a. All utility systems, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive by the Development Review Board.
  - b. The subdivider shall coordinate subdivision design with the utility companies to insure adequate and suitable areas for under or above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
  - c. Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands, any adverse impacts to the natural resources identified in Section 7.3, and to public health.
- B. **Easements.** Easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipate development outside the subdivision. Such easements shall be shown on the final plat.

**ARTICLE VIII. ADMINISTRATION & ENFORCEMENT**

**Section 8.1 Zoning Permits**

- A. **Permit Requirements.** No land development may commence, and no structure may be erected, substantially improved, moved, or changed in use without a zoning permit issued by the Zoning Administrator in accordance with the Act [’4446], unless specifically exempted under Section 1.4.
- B. **Application Requirements.** Applications for zoning permits shall be submitted to the Zoning Administrator on forms provided by the Town, in association with applicable permit fees. In addition, the following are required:
1. **Permitted Uses.** Applications for permitted uses shall include a statement of the existing and intended use of land and structures; and be accompanied by two (2) copies of a sketch plan, drawn to an appropriate scale, that accurately depict the following:
    - a. The dimensions of the lot;
    - b. The location, footprint and height in relation to pre-development natural grade of existing and proposed buildings, accessory structures and/or additions;
    - c. The location of existing and proposed easements, rights-of-way, and utilities;
    - d. Setback distances from property lines, rights-of-way and surface waters; and a surveyor’s plot plan, if available.
  2. **Conditional Uses.** Uses that require conditional use approval shall include, in lieu of a sketch plan, a site development plan and other information prepared and submitted in accordance with Section 5.2.
- C. **Action of the Zoning Administrator.** No zoning permit shall be issued by the Zoning Administrator for any use or structure which also requires the approval of the Planning Commission, DRB, Select Board and/or Health Officer until all such approvals have been granted. The Zoning Administrator shall within thirty (30) days of receipt of a complete application, including all application materials, fees and approvals, either issue or deny a zoning permit, or refer the application to the DRB for review. If the Zoning Administrator fails to act within the thirty (30) day period, a permit shall be deemed issued on the thirty-first (31st) day, except as provided in subsection (D), below.
- D. **Uses Subject to State Agency Referrals.**
1. Applications for development within the Flood Hazard Overlay District shall be referred to the Floodplain Management Section of the Vermont Department of Environmental Conservation for review. No zoning permit shall be issued until a response has been received from the Department, or the expiration of 30 days following the submission of the application.
  2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.
- E. **Issuance & Posting of Permits** Pursuant to the Act [’4448, ’4449], a zoning permit shall be issued in writing and shall include a statement of the time within which appeals may be taken under Section 8.3; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

- F. **Public Notice.** Within three (3) days of issuance, the Zoning Administrator shall deliver a copy of the permit to the Listers; and post a copy, for a period of fifteen (15) days from the date of issuance, at the Elmore Town Office.
- G. **Applications Submitted During Bylaw Adoption Process.** If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, the Zoning Administrator shall, for a period of 150 days following that notice, review any new application filed after the date of the notice under the proposed amendment and applicable existing bylaws and ordinances. If the proposed amendment has not been adopted by the conclusion of the 150-day period or if the proposed amendment is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed amendment that has subsequently been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost to the applicant, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the Zoning Administrator under this section shall be subject to appeal as provided in Section 8.3.
- H. **Effective Dates.** No zoning permit shall take effect until the time for appeal under Section 8.3 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. Permits shall remain in effect for two (2) years from the date of issuance. If development as authorized by the zoning permit has not substantially commenced within this period, the zoning permit shall become null and void.

## 8.2 Certificates of Compliance and Inspection of Improvements

- A. **Conditional Uses:** Any development requiring conditional use review shall require the completion of a certificate of compliance as a condition of approval issued pursuant to Article V. It shall be unlawful to use or to occupy said land or structure, or part thereof, until a certificate of compliance is issued by the Zoning Administrator stating that the proposed use of the structure or land conforms to the conditions and/or requirements of the Conditional Use Approval and any zoning permit issued in accordance with these regulations.
  - 1. An application for a certificate of compliance shall be provided with a zoning permit issued by the Zoning Administrator. The applicant shall submit the completed application upon completion of permitted improvements, but prior to the occupancy of the land or structure.
  - 2. Within 21 working days of receipt of the application for a certificate of compliance, the Zoning Administrator will inspect the premises to ensure that all work was completed in conformance with the permit, including all applicable conditions of the DRB. If the Zoning Administrator fails to either deny or grant the certificate of compliance within 21 working days of the submission of an application, the certificate of compliance shall be deemed to be issued on the 22<sup>nd</sup> day.
  - 3. A Certificate of Compliance is required of any new development within the Flood Hazard Overlay District.
  - 4. The Zoning Administrator may issue Temporary Certificates of Compliance lasting no more than six (6) months when weather conditions prevent installation of some improvements (for example, landscaping that cannot be installed during winter months). The Temporary Certificate of Compliance shall clearly specify the deferred conditions and/or requirements, and the date by which the Certificate expires, and all conditions/requirements must be complete.
- B. **Subdivision:** All subdivisions involving construction of new roads shall require a Certificate of Compliance, issued by the Zoning Administrator, stating that the subdivision conforms to the conditions and/or requirements of the Final Subdivision Approval, and that all improvements have been constructed in accordance with these Regulations and any other Standards or Specifications adopted by the Town of Elmore. The DRB may require a Certificate of Compliance for subdivisions not involving construction of new roads when the Board determines

such a Certificate is necessary to ensure compliance with conditions of approval or standards of these bylaws.

1. No building permits shall be issued for any lot within a subdivision, nor may any lot be sold or conveyed, until a Certificate of Compliance is issued, or an adequate bonding or other surety arrangement has been agreed upon by the Selectboard. The term of such bond of surety may be fixed for a maximum of three (3) years, within which time period said improvements must be completed. The term of such bond or surety may, with mutual consent of the Town and applicant, be extended for an additional period not to exceed three (3) years. [§4464(b)(2), §§4464(b)(4 - 6)]
2. As a condition of Final Subdivision Approval, the Development Review Board may require that the applicant provide a licensed engineer's certification that all improvements have been installed in accordance with the approved plans. Approval by State Permitting entities over improvements such as wastewater, water, and stormwater shall satisfy this requirement as it relates to those improvements.
3. Inspection of Roads – At least 21 days prior to commencing construction of any road improvements or new road, the applicant shall advise the Zoning Administrator, Selectboard, Highway Foreman, and Elmore Fire Department when construction is to begin, so that the Town can inspect during the construction process in order to ensure satisfactory completion of conditions and requirements of the Final Subdivision Approval. The Zoning Administrator may require that inspections are performed by a licensed engineer at the applicant's expense.
4. Within 21 working days of receipt of the application for a Certificate of Compliance, the Zoning Administrator will inspect the premises to ensure that all work was completed in conformance with the permit, including all applicable conditions of the DRB. If the Zoning Administrator fails to either deny or grant the certificate of compliance within 10 working days of the submission of an application, the certificate of compliance shall be deemed to be issued on the 22<sup>nd</sup> day.
5. Maintenance of Improvements – The applicant or successor shall be required to maintain all improvements (including snow removal). In accordance with Section 6.5(E) Issuance of a Certificate of Compliance shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, road, easement, utilities, park, recreational area or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard in accordance with applicable State laws.
6. The Zoning Administrator may issue Temporary Certificates of Compliance lasting no more than six (6) months when weather conditions prevent installation of some improvements (for example, landscaping that cannot be installed during winter months). The Temporary Certificate of Compliance shall clearly specify the deferred conditions and/or requirements, and the date by which the Certificate expires and all conditions/requirements must be complete.

## Section 8.3 Appeals

- A. **Decisions of the Zoning Administrator.** In accordance with the Act [§4465], the applicant or any other **interested person** may appeal a decision or act of the Zoning Administrator by filing a notice of appeal with the Secretary of the Board of Adjustment, or the Town Clerk if no Secretary has been elected, within 15 days of the date of such decision or act.
  1. Pursuant to the Act [§4468], the DRB shall hold a public hearing on a notice of appeal within 60 days of the date of its filing. The Board shall give public notice of the hearing under Section 8.6(D), and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
  2. A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion, pursuant to the Act [§4468]. The DRB may reject an appeal without hearing, and render a decision, which shall include written findings of fact, within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the

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decision shall be mailed to the appellant and hearing participants, and filed with the Zoning Administrator and Town Clerk.

- B. **Notice of Appeal of Zoning Administrator Decisions.** Pursuant to the Act [§4466], a notice of appeal of an action of the Zoning Administrator shall be in writing and include:
1. The name and address of the appellant;
  2. A brief description of the property with respect to which the appeal is taken;
  3. A reference to applicable bylaw provisions;
  4. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations;
  5. The alleged grounds why such relief is believed proper under the circumstances; and
  6. Any request for a stay of enforcement which may be granted or denied by the board of adjustment in accordance with the Act [§4466].

**Interested Person:** in addition to the applicant, the definition of an interested person under the Act [§4465(b)] includes the following:

- The Town of Elmore or an adjoining municipality.
- A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the town.
- Any ten (10) persons who may be a combination or voters or real property owners within the town who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in accord with the policies, purposes or terms of the plan or regulations of the town. The petition shall designate one person to serve as representative on all matters related to the appeal.
- Any department or administrative subdivision of the State owning property or any interest in property within the town or an adjoining municipality, and the Vermont Agency of Commerce and Community Development.

- C. **Decisions of the DRB.** Any interested person who has participated in a regulatory proceeding under these bylaws may appeal a decision of the DRB within 30 days of the date of such decision to the Vermont Environmental Court, in accordance with the Act [§4471]. For the purposes of these regulations, participation in a regulatory proceeding shall include offering, through oral or written testimony, evidence or a statement of concern related to the subject of the hearing.

- D. **Notice of Appeal of Development Review Board Decisions.** The notice of appeal of a decision of the DRB shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Zoning Administrator who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

## Section 8.4 Variances & Setback Waivers

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- A. **Setback Waivers.** Notwithstanding the minimum setback standards for front yards (setback from streetline) and side and rear yards (setback from parcel boundaries) for various zoning districts set forth in Article II, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 5.3 and subject to the following:
1. The structure associated with the waiver request was legally in existence prior to April 11, 2000;
  2. The Board may allow for a reduction of the front, side and rear setback, providing the reduction will not adversely impact the use and enjoyment of adjacent parcels, and the reduced setback complies all conditional use standards set forth in Section 5.3; and
  3. The waiver of the setback standard is for an addition or expansion of an existing structure; is generally consistent with the predominant building setbacks within the surrounding area of the parcel; and does not result in a reduction of the setback standard for the district in which the parcel is located by greater than 30%.
- B. **Variations.** The DRB shall hear and decide upon requests for variances pursuant to the Act [4468] and appeal procedures under Section 8.3. **The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found and the findings are specified in its decision:**
1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
  2. That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
  3. That the unnecessary hardship has not been created by the appellant;
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  5. That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- C. **Variations Involving Renewable Energy Facilities.** On an appeal for a variance from the provisions of this bylaw that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the facts listed in '4468(b) of the Act are found in the affirmative and specified in its decision.
- D. **Variations within the Flood Hazard Overlay District.** Variations within the Flood Hazard Area Overlay District shall be granted by the DRB only if, in addition to the criteria above, the application also meets all requirements for a variance outlined in the Elmore Flood Hazard Regulations, as most recently amended.
- E. In granting a variance, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of this bylaw and the municipal plan currently in effect. In no case shall the DRB grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.

## Section 8.5 Violations and Enforcement

- A. **Violations.** The commencement or continuation of any land development or use which is not in conformance with the provisions of this bylaw shall constitute a violation. All violations shall be pursued in accordance with the Act [4451, 4452]. The Zoning Administrator shall initiate

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appropriate action in the name of the municipality to enforce the provisions of this bylaw. All fines imposed and collected for the violation of this bylaw shall be paid over to the municipality.

- B. **Notice of Violation.** Pursuant to the Act [‘4451], no action may be brought under this section unless the alleged offender has had at least seven (7) days’ notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the next succeeding twelve (12) months.
- C. **Limitations on Enforcement.** The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [‘4454].
- D. **Violations located within the Flood Hazard Overlay District.**
  - 1. A copy of the notice of violation issued in 6.6(A) will be mailed to the State NFIP Coordinator by the Zoning Administrator.
  - 2. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
  - 3. The Zoning Administrator shall also follow any other procedures for violations outlined in the Elmore Flood Hazard Regulations, as most recently amended.
- E. **Violations and Subdivision.** Any person who sells, transfers, or agrees to sell or transfer any land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these regulations shall be fined pursuant to the Act [‘4451]; and each lot, parcel, or unit so sold, transferred, or agreed to be sold or transferred shall be deemed a separate violations

### Section 8.6 Municipal Administrative Requirements

- A. **Appointments.** The following appointments shall be made in association with the administration and enforcement of this bylaw:
  - 1. **Zoning Administrator.** The Selectboard shall appoint a Zoning Administrator, from nominations submitted by the Planning Commission, for a term of three (3) years in accordance with the Act [‘4448]. In the absence of the Zoning Administrator, or in the event of a potential conflict of interest, an Acting Zoning Administrator may be appointed by the Selectboard, from nominations submitted by the Planning Commission, for a specified term. The Zoning Administrator shall administer this bylaw literally, and shall not have the power to permit any development that is not in conformance with the provisions of this bylaw.
  - 2. **Development Review Board (DRB).** A Development Review Board (DRB) shall be appointed by the Select Board in accordance with the Act [‘4460]. The Board shall adopt rules of procedure, and rules of ethics with respect to conflicts of interest, to guide its official conduct in accordance with the requirements of the Act [‘4462] and Vermont’s Open Meeting Law [1 V.S.A., ‘310-314]; and shall have powers and duties as set forth in the Act to administer the provisions of this bylaw, including but not limited to the hearing of appeals of decisions or acts of the Zoning Administrator, appeals for variances from these regulations, and applications for conditional use and planned residential developments.
  - 3. **Planning Commission.** A Planning Commission shall be appointed by the Select Board in accordance with the Act [‘4321, ‘4323.] The Planning Commission shall have non-regulatory powers and duties as set forth in the Act [‘4325,] including the drafting of amendments to this bylaw.

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- B. **Fee Schedule.** The Select Board shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering the Town's administrative costs.
- C. **Hearing Notice Requirements.** In accordance with the Act [§4464(a)], a warned public hearing shall be required for conditional use review (Section 5.3), appeals and variances (Sections 8.3 & 8.4). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:
1. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town;
  2. Posting of the same information in three (3) or more public places within the municipality, including posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
  3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
  4. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
  5. The applicant or appellant shall be required to bear the cost of public warning, and the cost of notifying adjoining landowners, as required under Subsections (C)(1) and (C)(2). In addition to any application fee established by the Selectboard, the applicant shall bear the cost of deliver to adjoining landowners, as determined from the most recent municipal grand list, either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
  6. No defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Environmental Court, the action shall be remanded to the Board or Commission to provide new posting and notice, hold a new hearing, and take a new action.
  7. Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [§§ 4441, 4444].
- D. **Independent Technical Review:** Pursuant to the Act §4440, the Development Review Board may require an applicant to pay for the reasonable costs of an independent technical review of the application or related legal documents. Accordingly, the Development Review Board shall prepare a detailed scope for the technical review. The scope shall be strictly limited and relevant to specific review criteria upon which the Board is required to base its decision on the application and shall require that the review be completed in a timely manner, as specified by the Board. The Board, in consultation with the Selectboard, and adopted town policies, shall retain a competent and, where applicable, licensed individual or company qualified in the pertinent field(s) to conduct the independent review. The cost of the review shall be paid for by the applicant, in accordance with procedures established by the Selectboard.
- E. **Site Visits:** To verify the location of proposed development and improvements, and to evaluate conformity of the application with the standards of these bylaws and Town Plan, the Development Review Board may make a site visit and require the applicant's attendance at the site visit. Interested parties shall be invited to the site visit. A site visit shall be mandatory for any subdivision, and shall be conducted at the sketch plan phase.
- F. **Recording Requirements.**
1. Pursuant to the Act [§4449(c)], within thirty (30) days after a municipal permit, including but not limited to a zoning permit and associated conditional use and/or variance approvals has become final, or within thirty (30) days of the issuance of a notice of violation, the Zoning Administrator shall deliver the notice of violation, or memorandum

- or notice of recording, to the Town Clerk for recording as provided in statute [24 V.S.A. subsections 1154(a) or (b)]. The applicant may be charged for the cost of recording fees.
2. For development within the ***Flood Hazard Area Overlay District***, the Zoning Administrator shall maintain a record of:
    - a. All permits issued for development in areas of special flood hazard;
    - b. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
    - c. The elevation, in relation to mean sea level, to which buildings have been floodproofed;
    - d. All floodproofing certifications required under this regulation; and
    - e. All variance actions, including the justification for their issuance.
    - f. Any other documentation required by the Elmore Flood Hazard Regulations, as most recently amended.
  3. **For Final Subdivision Mylars:** In accordance with the Act [§4463(b)], within 180 days of the date of receipt of subdivision approval under Section 6.5, the applicant shall file one (1) Mylar original of the final plat, two (2) paper copies, and one (1) copy in a digital format compatible with the Vermont Geographic Information System, for recording with the municipality in conformance with the requirements of 27 V.S.A., Chapter 117. Approved plats not filed and recorded within this 180 day period shall expire, unless the Zoning Administrator issues an extension for an additional 90 days in the event that final local or state permits or approvals are still pending.
    - a. Prior to plat recording, the plat must be signed by the Chair or other authorized member of the Development Review Board.
    - b. After an approved plat or certification by the Town Clerk is filed, no expiration of that approval or certification shall be applicable.
    - c. The municipality shall also meet all recording requirements for final subdivision plan and plat approval as specified for municipal land use permits above. Fees for the recording of the final plat and related documents shall be paid by the subdivider.

## Section 9.1 Terms and Uses

(A) Except where specifically defined herein or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in this bylaw shall have their usual, customary meanings.

(B) In the interpretation of words and terms used, defined, or further described herein, the following shall apply:

- (1) The particular controls the general;
- (2) The present tense includes the future tense;
- (3) The word "shall" is mandatory; the word "may" is permissive; the term "generally shall" indicates that it is mandatory unless the Development Review Board, Planning Commission or other applicable body deems otherwise in accordance with these regulations.
- (4) The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual, unless otherwise specifically defined herein;
- (5) The word "structure" includes "building"; and
- (6) The word "lot" includes "parcel".

(C) For the purposes of flood hazard area regulation, National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided herein.

(D) Any interpretation of words, phrases or terms by the Zoning Administrator may be appealed to the Development Review Board under Section 8.2 for a written declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of this bylaw. The Board shall publish and update from time to time such rulings of interpretation, to ensure consistent and uniform application of the provisions of this bylaw.

## Section 9.2 Definitions

**Accessory Dwelling:** A separate, complete housekeeping unit which is incidental to and contained within, attached to, or detached from a single-family dwelling, in which the title is inseparable from the primary dwelling. This definition shall include accessory units as defined under the Act [Section 4412(1)(E)] (see Section 4.1).

**Accessory Farm Dwelling:** A dwelling unit, other than the principal single-family dwelling, that is accessory to an operating farm. An accessory farm dwelling shall consist of a mobile home occupied by a full-time employee of the operating farm and their household, or by seasonal farm workers (see Section 4.1). See Operating Farm.

**Accessory Structure:** A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. Examples of accessory structures include patios, permanent swimming pools, porches, garages, tool sheds, workshops, decks and gazebos, boathouses, stairs, and docks. See also Accessory Dwelling, Accessory Use.

**Accessory Use:** A use which is incidental and subordinate to a principal use located on the same lot. Accessory uses may include home occupations, day care centers or group homes within single family residences. An accessory use shall not include a use which is not otherwise permitted in the district in which it is located. See also Accessory Dwelling.

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

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**Affiliated Ownership:** Ownership of two (2) or more parcels of land owned by an individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture. Land will be considered in affiliated ownership if two or more parcels are held separately by an individual's parents, spouse and/or children, unless an individual establishes that he or she will derive no profit or consideration, or acquire other beneficial interest from a determination that two or more parcels are in non-affiliated ownership.

**Affordable Housing:** In accordance with the Act [§4303(1)], housing that is either:

- (1) owned by its inhabitants, whose gross annual household income does not exceed 100% of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30% of the household's gross annual income; or
- (2) rented by its inhabitants whose gross annual household income does not exceed 80% of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30% of the household's gross annual income.

**Agriculture:** Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the premises; or as otherwise defined by the Commissioner of Agriculture, Food and Markets. Structures which are customarily accessory to agricultural uses and are located on the same parcel as an agricultural use, with the exception of residential dwellings, shall be included in this definition.

**Alteration:** A change or rearrangement in the structural parts of a building, excluding ordinary repairs or modifications, or an enlargement, extension, increase in height or relocation of a building. See also Substantial Improvement.

**Base Flood:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Base Flood Elevation (BFE)** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Basement:** Any area of a building having its floor below ground (subgraded) on all sides. Within the Flood Hazard Area Overlay, this term shall be as defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Bed & Breakfast:** A single family dwelling designed to room and board persons on a nightly, weekly, or seasonal basis, accommodating not more than eight (8) guests in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms.

**Best Management Practices (BMPs):** Approved activities, maintenance procedures, and other practices. For the Shoreland Districts, BMPs are intended to prevent or reduce the effects of impervious surface or cleared area on water quality and natural resources as approved by the VT Department of Environmental Conservation and the Commissioner of Forests, Parks, and Recreation, . For agricultural and silvicultural practices, BMPs shall mean those activities, procedures, and practices approved by the Commissioner of the Agency of Agriculture, Food, and Markets.

**Buffer:** A designated strip or area of land intended to visibly and/or functionally separate one use from another; to shield or block noise, lights, or other nuisance from neighboring properties; or to lessen the visual or physical impact of development on surface waters, wetlands and other natural and scenic areas.

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**Building:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, vehicles, machinery or other materials. For purposes of flood hazard area regulation, this also includes gas or liquid storage tanks that are principally above ground.

**Building Coverage (Area, Footprint):** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory structures on a lot, including the area of all exterior decks, porches and patios.

**Building Envelope:** A specific area of a lot, delineated on a subdivision plat or site development plan, within which structures, parking and loading areas shall be located, and outside of which no structures, parking or loading areas shall be located. A development envelope shall be defined by required minimum setback and height distances, unless otherwise specified in these regulations. In some instances, other areas may be excluded from the building envelope, as specified in the standards of these bylaws. This also may be referred to as the 'buildable area' of a lot.

**Building or Structure Height:** Vertical distance measured from the highest point of the roof or top of the building (e.g., roof peak) to the lowest point of the pre-development natural grade at the foundation (see Section 3.6).

**Camper (Recreation Vehicle, Travel Trailer):** A vehicle without permanent foundation, which can be towed, hauled or driven, and is designed as a temporary living accommodation for travel, recreational, and/or camping use. This includes but may not be limited to travel trailers, truck campers, camping trailers, self-propelled motor homes or any other similar device or conveyance so constructed as to permit its ready transport, or use as temporary living/sleeping quarters (see Section 4.2). Campers, by definition, are not considered mobile homes for the purposes of these regulations. See also Accessory Dwelling, Mobile Home.

**Cemetery:** Land that is set apart or used for the interment of the dead or in which human remains have been buried. This may include above ground structures for the interment or storage of remains.

**Church:** See Place of Worship

**Cleared Area(s):** An area where vegetative cover, soil, tree canopy, or duff has been permanently removed or altered.

**Commercial:** An activity or enterprise that is carried on for profit or pecuniary gain by the owner, lessee, or licensee.

**Community Care Facility:** A facility providing room, board and personal care services which contains common cooking, dining and recreation facilities which serves the elderly and/or the infirm. See also Day Care Facility and Group Home.

**Community Facility:** A facility owned, operated, and/or maintained by a municipal, state, federal or community non-profit agency or service organization for use or access by the general public, including but not limited to office, meeting, assembly, cultural, and social facilities. A post office operated by the U.S. Postal Service is included in this definition. Educational and recreation facilities, defined elsewhere, are specifically excluded from this definition. See also Community Services, Educational Facility, Recreation/Indoor and Outdoor.

**Community Services:** Services and associated facilities maintained by municipal, state or federal government, community non-profit agencies or regulated utilities which serve but are typically not open to the general public, including but not limited to ambulance and fire stations, garages and equipment sheds, water and wastewater facilities, solid waste management facilities, and other institutional facilities where public access is prohibited, limited or controlled. Community facilities, electric utilities and telecommunications facilities, defined elsewhere, are specifically excluded from this definition. See also Community Facility, Electric Utility, Telecommunications Facility.

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**Community Sewage Disposal System:** Any wastewater disposal system other than a municipal sewage disposal system, owned by the same person or persons, that disposes of sewage for domestic, commercial, industrial or institutional uses to two or more users or customers.

**Community Water System:** Any water system owned by the same person or persons that supplies water for domestic, commercial, industrial, or institutional uses to two or more users or customers.

**Conditional Use:** A land use or type of development only allowed in a particular zoning district with the approval of the Development Review Board in accordance with Section 5.3.

**Construction:** Exterior substantial improvements or new assembly or placement of a structure on a site, including related, incidental site preparations, excavation and grading.

**Contiguous:** A land area shall be contiguous although crossed, bisected, or otherwise encumbered by town highways, roads, private rights-of-way, road and utility line rights-of-way and easements, or other like encumbrances or easements, drainages, brooks, and streams. A parcel of land shall be considered contiguous to another parcel of land if it meets at any point. Rights-of-way and public waters which divide ownership of land shall define non-contiguous land areas.

**Conversion:** The change of use of land or building from one category of use as listed in the zoning district regulations or defined in this section, to another category of use, including the conversion of a seasonal dwelling to a dwelling intended and designed for year-round occupancy.

**Cottage Industry:** A commercial, manufacturing or light industrial use which is housed in a single family dwelling or in an accessory structure to a single family dwelling (see Section 4.5). Examples of such uses include home-based woodworking, automobile and small engine repair, and contractor operations. See also Home Occupation, Rural Industry.

**Day Care Center:** A facility providing day care services, for profit or otherwise, for children and/or the elderly. Pursuant to the Act [Section 4412(5)] a state registered or licensed day care facility serving six (6) or fewer children on a full time basis in addition to not more than four (4) children on a part time basis, shall be considered by right to constitute a permitted single-family residential use of the property. See Home Child Care.

**Degree of Noncompliance:** The extent to which a structure encroaches upon, or otherwise violates, one or more dimensional standard of these regulations. The extension of a structure which results in an additional encroachment of the noncomplying feature/element, including the expansion of the footprint of a structure within a building setback, would increase the degree of noncompliance.

**Development:** The division of a parcel of land into two or more parcels; the construction, reconstruction, substantial improvement, conversion, structural alteration, relocation or enlargement of any building or other structure; storage of equipment or materials; or of any dredging, mining, paving, drilling, excavation or landfill; and any change in the use of any building or other structure, or land, or extension of use of land, pursuant to the definition of “land development” in the Act [Section 4303(10)]. See also Subdivision, Substantial Improvement.

**Development Road:** See Road

**Dock:** An accessory structure built or anchored to the shore to which boats or other floating vessels are secured. Docks shall not provide the foundation for a boat house or other similar structures.

**Driveway:** A minor travel way providing vehicular serving a maximum of three (3) parcels.

**Duff Layer:** Leaf litter plus small fragments of plants and organic debris.

## Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Dwelling (Dwelling Unit):** A building designed or used as the permanent or seasonal living quarters for one or more families. A dwelling unit shall consist of one (1) or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. Each dwelling unit shall constitute a separate unit for purposes of calculating density. The terms “dwelling” and “dwelling unit” do not include hotels, motels, or similar lodging facilities. See also Family.

**Dwelling/Accessory:** See Accessory Dwelling.

**Dwelling/Multi-Family:** A building containing, for the purposes of these regulations, no more than four (4) dwelling units for families living independently of each other, or up to six (6) such dwelling units in a Conservation Subdivision/PUD, or an unlimited number of units dedicated as Elderly Housing. This includes condominiums, apartments, cooperatives, and other forms of multiple family housing, but does not include hotels or motels.

**Dwelling/Single-Family:** A building consisting of one (1) dwelling unit. See also Accessory Dwelling.

**Educational Facility:** A public or private school or other facility intended specifically for educational purposes which is certified by the Vermont Department of Education.

**Elderly Housing:** Housing specifically designed, built, operated and reserved for elderly residents (55 years and older), consistent with state and federal fair housing standards and requirements.

**Electric Utility:** A structure or facility owned, operated and/or maintained by a regulated public or private utility which is used in connection with the production, generation, and/or transmission of electricity. This includes transmission lines and supporting structures that transport electric power between utility facilities (e.g., stations or substations), as distinguished from distribution lines serving individual consumers which are specifically excluded from this definition.

**Excavation:** Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns which substantially affects adjacent properties (see Section 4.6). Common agricultural tillage, gardening and excavations in cemeteries shall be exempt from the provisions of these regulations.

**Existing Development:** In the Developed and Undeveloped Shoreland Districts, all disturbed areas, including cleared areas and impervious surfaces and permanent structures, such as structures, driveways, decks, patios, landscaped features (such as, but not limited to, lawns, gardens, and pathways), and any graded, cleared, or excavated areas necessary for construction or infrastructure that were in existence prior to July 1, 2014.

**Extremely Steep Slope:** A slope with a natural (pre-development) grade of more than 20%.

**Family:** One (1) or more persons occupying a single dwelling unit and living as a single household or housekeeping unit.

**Forest Fragmentation:** The division or conversion of large tracts of contiguous forest or formerly contiguous forest into smaller pieces leaving remnant patches of forest that vary in size and isolation separated by non-forested lands or other vegetation and land use types. Fragmentation can reduce the viability of forests for forest management, hinder ecological functions such as watershed protection, disrupt wildlife corridors, and render core habitat and other habitats unsuitable for certain species of plants and animals.

**Forestland, Productive:** Land with soils that are capable of forestry. Vermont’s Current Use program defines productive forest as forested areas on soils of Site Class I, II, or III (i.e. capable of growing 20 cubic feet of wood per acre per year or more).

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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

**Final Plat:** The final drawings on which the subdivision is presented to the Development Review Board for approval and which, if approved, shall be filed for record with the Town Clerk.

**FIRM:** see Flood Insurance Rate Map

**Flood:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

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

**Flood Insurance Rate Map (FIRM):** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Flood Insurance Study:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Floodproofing:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Floodway:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Forestry (Forest Management):** The use and management of land for purposes of conservation and/or wood production. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the storage, processing, and/or manufacturing of wood and wood products. See Cottage Industry, Rural Industry.

**Forestland:** The following areas:

**Core Forest:** forestlands that are at least 100 meters (328 feet) from significant development, such as roads, houses, and active farmland, and/or

**Forestland, Productive:** Land with soils that are capable of forestry. Vermont's Current Use program defines productive forest as forested areas on soils of Site Class I, II, or III (i.e. capable of growing 20 cubic feet of wood per acre per year or more).

**Frontage:** The length of a lot as measured along a maintained public road, other approved development road or street right-of-way; or shoreline.

**Garden Center:** An activity involving the sale of tools, small equipment, plants and related goods for use in gardening, landscaping and/or farming.

**Group Home:** A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than eight (8) residents who are unrelated to the operator. Pursuant to the Act [Section 4412(1)(g)], a group home licensed or registered by the state which houses less than eight (8) residents, usually with medical or development disabilities, as defined in 33 VSA §4902(3)(A), shall be considered by right to constitute a permitted single family use of the property. See also Community Care Facility.

**Habitable Floor Area:** The area of any building that is heated and suitable for human occupancy, excluding floor area with less than seven feet of clearance between the floor and ceiling.

**Health Clinic:** Any establishment where people are examined and treated by health care professionals on an out-patient basis.

## Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Home Occupation:** An customary occupation carried on entirely within a dwelling and/or accessory structure by the occupants thereof, which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not substantially alter the residential character thereof (see Section 4.5). See also Cottage Industry.

**Impervious Surface:** Manmade surfaces, including paved and unpaved roads, paved and unpaved areas, roofs, decks, driveways, and walkways or footpaths, from which precipitation runs off rather than infiltrates.

**Industrial Uses:** Industrial uses shall include specifically those activities involving the manufacture, processing, fabrication, and/or warehousing of materials and products. See also Cottage Industry, Rural Industry.

**Interested Person:** An interested person, defined in §4465 as having the right to appeal a decision of the Development review Board to the Vermont Environmental Court, includes the following:

- a) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- b) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
- c) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
- d) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. And
- e) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

Also see "Person."

**Junk Yard:** See Salvage Yard.

**Kennel (Boarding):** Any lot or premises operated by a commercial or non-profit entity, on which more than four (4) dogs, cats, or other household domestic animals are temporarily or permanently boarded.

**Lakeside Zone:** The portion of the Developed and Undeveloped Shoreland Districts surrounding lakes and ponds greater than 10 acres, as measured horizontally 100 feet from the mean water level.

**Letter of Map Amendment (LOMA):** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Lot:** A parcel of land occupied or to be occupied by only one principal use, and accessory structures or uses customarily incidental to the principal use, unless otherwise approved as part of mixed use. A lot shall have sufficient size to meet the zoning requirements for use, area, setbacks, density, and coverage, and to provide such yards, and other open areas as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the Planning Commission. For purposes of these regulations, a lot may consist of a single lot of record, a delineated portion of a lot of record, a combination of complete lots of record and/or delineated portions of lots of record; or a parcel of land described by metes and bounds.

A parcel of land occupied or intended to be occupied by only one principal use, and accessory structures or uses customarily incidental to the principal use (unless otherwise approved as part of mixed use or Planned Unit Development) A lot shall have sufficient size to meet the zoning requirements for use, area, setbacks, density, and coverage, and to provide such yards, and other open areas as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the Development Review Board. For the purposes of these regulations, Town Road right-of-ways shall not be considered lot boundaries unless approved as such by the Development Review Board.

**Lot Area:** Total area within the property line, excluding any part thereof lying within the boundaries of an existing or proposed street line.

**Lot Coverage:** The percentage of lot area which is covered by buildings, structures, and other impervious surfaces.

**Lot of Record:** Any lot which individually, or as part of a subdivision, has been recorded under proper procedural steps in the office of the Town Clerk.

**Lowest floor:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Low Impact Development (LID):** A set of techniques and practices for stormwater management designed to mimic natural hydrologic function by reducing stormwater runoff and increasing groundwater recharge and pollution treatment. LID practices are usually small in scale and diffuse across a project site; they are generally surface vegetative systems that are integrated with the site development infrastructure. Examples of Low Impact Development practices include:

**Bioretention System.** Bioretention or bioinfiltration systems retain runoff and pass it through a filter bed comprised of specific soil media. They resemble landscaped depressions and can contain grasses, wildflowers, shrubs, or trees depending on the size of the area. Stormwater runoff is delivered by channels, filter strips, curb cuts, or piping to these depressions where it temporarily ponds on the surface before seeping through an organic underground filter system and discharging to an underdrain network or infiltrating into the underlying soils. Treatment of stormwater includes attenuation of sediment, metals, bacteria, and nutrients.

**Rain Garden.** Rain gardens are smaller-scale bioretention systems, well-suited for residential lots. They retain runoff and pass it through a filter bed comprised of specific soil media. They are a landscaped depression used to mitigate rooftop runoff or located at a low point on the lot to treat all stormwater on-site. Rain gardens are designed to be aesthetically pleasing and low maintenance with plant materials that can withstand periodic inundation. Rain gardens are usually sized to accommodate runoff from typical small storms, and during less frequent large storms they will overflow.

**Swale.** Swales are open, grassed channels that are designed to treat, attenuate, and convey stormwater runoff. They are similar to conventional drainage ditches except that they are designed with a wider and shallower profile and flatter slope for a slower water velocity. There are many types of swales, and the specific design features and treatment methods vary among them. Some swales are designed with a fabricated soil bed and underdrains similar to a

bioretention system. Generally swales are used as pretreatment to other practices, although depending on the design they may also provide some pollutant removal or infiltration.

**Vegetated Buffer.** Vegetated buffers may be engineered stormwater treatment areas or undisturbed natural areas where vegetation is used to treat and control stormwater. Buffers can be used to disperse and infiltrate stormwater runoff immediately adjacent to rivers, streams, ponds, and wetlands. They are an effective means of minimizing the amount of pollutants entering water bodies. They can also be used to treat stormwater along property boundaries or downslope of disturbed areas. They reduce runoff velocity, serve to protect soil from erosion and filter pollutants. Buffers comprised of natural woody vegetation are preferred. When natural vegetation cannot be preserved, new buffers can be designed as shallow pitched vegetated areas with herbaceous plants, low-lying groundcovers, shrubs, and trees. Stormwater flowing into buffer areas should be sheet flow and may require the use of a level spreader.

**Dry Well.** A dry well is an underground chamber or large vertical pipe filled and/or surrounded with stone, typically used to collect and infiltrate roof runoff. Water from sources other than a roof will likely need preliminary treatment to filter out any solids that could clog the dry well. An overflow outlet is frequently needed for runoff from large storms that cannot be fully infiltrated. Dry wells are best suited where soils have high infiltration rates and there is adequate depth to groundwater and bedrock.

**Infiltration Trench.** An infiltration trench is similar to a dry well except that it is a horizontal rock-filled trench with no outlet. Stormwater is usually pretreated before entering the trench where it is stored in the void space between the stones and infiltrates through the bottom and into the soil. An overflow outlet is frequently needed for runoff from large storms that cannot be fully infiltrated. Infiltration trenches are best suited where soils have high infiltration rates and there is adequate depth to groundwater and bedrock.

**Manufacturing:** Any process by whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged.

**Mean Water Level:** The average height of the water surface as defined in the VT DEC's Rules for Determining Mean Water Level. Some lakes may have a specific elevation that has been established through rule or permit.

**Minimum Lot Size:** The smallest area on which any development as defined herein is permitted if also in conformance with all other provisions of this bylaw. Also see Development, Lot.

**Mixed Use:** A structure or parcel containing two (2) or more principal uses which are allowed within the district in which it is located.

**Mobile Home:** A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes other forms of permanent housing manufactured off-site, but specifically excludes campers and other recreation vehicles (see Sections 3.3, 4.2). See also Campers.

**Mobile Home Park:** a parcel of land under single or common ownership or control, which is used (or is to be used) to accommodate three (3) or more mobile homes (see Section 4.7). See also the state definition [10 V.S.A. §6201].

**Natural Grade:** The unmanipulated surface elevation and topography of land within and surrounding a proposed development, excluding all earthwork occurring less than ten (10) years prior to the application for development.

**New construction:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

## Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Nonconforming Structure:** A structure or part thereof not in compliance with the minimum requirements of this bylaw, including but not limited to bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of this bylaw (see Section 3.8). Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**Non-conforming Use:** A use of land or a structure which does not comply with all provisions of this bylaw, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of this bylaw (see Section 3.8).

**Non-Structural Practices:** See Stormwater, Non-Structural Practices.

**Noxious Weed:** Any plant in any stage of development, including parasitic plants whose presence, whether direct or indirect, is detrimental to the environment, crops, or other desirable plants, livestock, land, or other property, or is injurious to the public health. This includes noxious weeds listed on the Federal Noxious Weed List (7 C.F.R. 360.200), or any noxious weed that is not native to the State, not currently known to occur in the State, and poses a serious threat to the State, or as otherwise defined by the VT DEC or VT Agency of Agriculture, Food, and Markets.

**Open Space:** The undeveloped portion of any development parcel(s) which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, commercial recreation facilities, or yard (setback) areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural land, or for the protection of natural areas.

**Open Space:** The undeveloped portion of any development parcel(s) which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, commercial recreation facilities, or yard (setback) areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural land, or for the protection of natural areas.

**Office Building:** A building or portion of a building wherein services are performed involving predominately administrative, clerical or professional operations.

**Parking Space:** An off-street area of not less than one hundred and eighty (180) square feet exclusive of loading, access and maneuvering areas, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time (see Section 3.10).

**Permitted Use:** A land use or type of land development only allowed in a particular zoning district with a zoning permit issued by the Zoning Administrator in accordance with Section 8.1.

**Person:** Any individual, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations. The word “person” shall also include any municipality or other government agency.

**Place of Worship:** A building or structure wherein persons regularly assemble for organized religious worship and associated accessory uses, which is maintained and controlled by a religious body organized to sustain public worship.

**Playground:** An area of landscaped open space equipped with children’s play equipment such as slides or swings.

**Primary Agricultural Soils:** Soil types designated as “prime” or “statewide” by the United States Natural Resource Conservation Service.

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Primitive Camp:** An occupied structure located on its own lot with no interior plumbing consisting of no more than a sink with water that is used for no more than three (3) consecutive weeks per year and no more than a total of sixty (60) days per year.

**Principal Structure or Use:** A structure or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures and/or uses, constitutes all structures and uses of said lot. See also Accessory Structure, Accessory Use, Mixed Use.

**Prominent Knoll or Ridgeline:** The following geologic features:

- a) All land within the Forest Reserve District
- b) Elmore Hill from 1,390' to the peak
- c) Brown Hill from 1,290 to the peak
- d) The upper 200 feet of any other peak 1,500' or greater; or if two peaks above 1,500 are connected by a saddle with an elevation of 1,200 or greater, the area from the saddle to the peak.

**Public Beach:** A parcel of land with lakeshore frontage owned, operated and/or maintained by state or municipal government for use by the general public for recreational purposes.

**Public Campground:** A parcel of land owned operated and/or maintained by state or municipal government upon which two or more campsites are located for occupancy by a camper, tent, recreation vehicle, lean-to, or similar structure for use by the general public as temporary living quarters for recreation, education, or vacation purposes. See also Recreation/Outdoor.

**Ramp:** A sloping walkway, driveway or passage used to join and provide a smooth transition between two levels of different elevations.

**Rebuttable Presumption.** An assumption made by the DRB that a standard is met unless an interested person comes forward to contest it and proves otherwise. The burden of proof is on the individual contesting the rebuttable presumption.

**Recreation/Indoor:** Any facility for indoor recreational use including but not limited to bowling alleys, theaters, pool halls, skating rinks, gymnasiums, indoor swimming pools, tennis courts and other similar places of indoor recreation, with the exception of such facilities that are accessory to a residential dwelling. See also Community Facility.

**Recreation/Outdoor:** Any facility for outdoor recreation, including but not limited to athletic fields, golf courses, shooting or archery ranges, swimming pools, skating rinks, tennis courts, parks; and trails for hiking, horseback riding, bicycling, snowmobiling and cross-country skiing, and other similar places for outdoor recreation, with the specific exception of campgrounds and beaches which are excluded from this definition, or facilities that are accessory to a residential dwelling which are specifically exempted from this definition. “Undeveloped” outdoor recreation shall be limited to such activities as walking, hiking, cross-country skiing, and primitive camping which, other than for maintenance of existing trails, require no developed access or other supporting or accessory infrastructure. See also Playground, Public Beach, Public Campground.

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

**Renewable Energy Resources:** Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat and geothermal sources.

**Residential Use:** Includes single family, two-family and multi-family dwellings.

## Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Resubdivision:** Any change in a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line; or if the change affects any map, plan or conditions recorded in association with the subdivision plat.

**Restaurant:** Premises where food and drink are prepared, served, and consumed primarily within the principal building, including bars and lounges. Drive-through restaurants are specifically excluded from this definition and are prohibited.

**Retail Commercial:** Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided. This definition specifically excludes automobile sales establishments, automobile service and gasoline stations, and the retail sale of gasoline in association with other retail uses.

**Retaining Wall:** A structure constructed to hold back or support an earthen bank.

**Retreat:** A facility used for professional, education or religious conclaves, meetings, or seminars and which may provide meals, housing and recreation for program participants. Such facilities shall not be open to the general public for meals or lodging. Kitchen and dining facilities shall be located in a single, centrally located building.

**Ridgeline:** The uppermost point of a ridge, hill, cliff, slope or face. It may be the top of a rock cliff, or where the bedrock is buried, the most obvious break in slope associated with the underlying bedrock. The ridgeline does not include intermediate terraces and steps along the face of the slope.

**River** means any channel of water delineated as a “river” within the Vermont Hydrography Dataset, available through the Vermont Center for Geographic Information (VCGI).

**River Corridor:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Road:** A travel way between right-of-way lines, commonly used for vehicular traffic, serving four (4) or more lots. See Also Driveway.

**Rural Industry:** Industrial uses and facilities limited to those manufacturing, processing, fabrication, or warehousing activities that will not disturb or endanger neighboring properties (see Section 4.9). See also Cottage Industry.

**Saddle:** The low point on a ridge between two summits.

**Salvage Yard:** Land used for the outdoor collection, storage or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage or sale of machinery or vehicles which are not inspected and not in operating condition (see Sections 3.9, 4.10).

**Setback:** Structure or building or setbacks, as established for each district and/or use, which are measured from the street line, property, streambank or shoreline or other delineated feature edge (e.g., for wetlands) to the closest portion of any structure including but not limited to roof lines, porches (enclosed and unenclosed), decks, sills and overhangs. Entry stairs and handicap ramps are specifically excluded from setback requirements.

**Service Commercial:** An establishment providing services of a personal nature, including but not limited to laundry and dry cleaning, beauty shops, barber shops, appliance repair, funeral services, and photographic studios.

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Shoreland:** The area of land between the normal mean water mark of a lake, pond, or impoundment with a surface area of twenty (20) acres or more, and a line not less than five hundred (500) feet nor more than one thousand (1000) feet from such a mean water mark. For shoreland district delineation purposes, this includes all land within five hundred (500) feet of the mean water mark of Lake Elmore, Hardwood Pond, and Little Elmore Pond.

**Significant Wildlife Habitat.** Significant wildlife habitats are those natural features that are essential for the survival and/or reproduction of the native wildlife of Elmore. This shall include, but is not limited to, (1) deer winter habitat; (2) habitat for rare, threatened and endangered; (3) concentrated black bear feeding habitat (bear-scarred beech and oak stands); and (4) wetlands that provide critical functions for sensitive or unusual wetland-dependent wildlife such as breeding/nesting habitat for wading birds (bitterns, herons), waterfowl (ducks, geese) and otter and vernal pools, and (5) Wildlife Travel Corridors.

**Slope:** The topographic gradient of any area of land, whether or not located on a single parcel, as determined by the change in vertical distance or elevation (rise) over a horizontal distance (run) which, for the purposes of these regulations is expressed as a percentage (e.g., 20-ft gain/100-ft distance = 0.20 or 20%). For construction and grading purposes slope also may be expressed as the ratio of the horizontal to vertical distance (e.g., 2:1). For purposes of these regulations, a "steep slope" is a slope with a natural (pre-development) grade of 15% to 20%. An "extremely steep slope" is a slope with a natural (pre-development) grade of more than 20%."

**Sign:** Any structure, display, device, or representation, which is designed, used or placed as an announcement, direction or advertisement. The word "placed" for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed or made visible in any manner whatsoever (see Section 3.13).

**Sketch Plan:** An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to reach general agreement with the Development Review Board as the form of the subdivision and objective and requirements of these regulations.

**Special Flood Hazard Area:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Storage Facility:** A building or structure used exclusively for the storage of goods.

**Stormwater:** Precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows. Also referred to as "Stormwater runoff," "stormwater," or "runoff" See also "Low Impact Development."

**Stormwater, Non-Structural Practice:** Practices that utilizing undisturbed natural vegetated areas for stormwater treatment and/or shift stormwater design away from centralized management and focus instead on infiltrating and treating stormwater runoff close to the source. Examples of Non-Structural Practices include reforestation and tree planting to, "disconnecting" stormwater runoff from surface waters by directing flow from residential or small commercial rooftops, sidewalks, and residential driveways to pervious areas, where it can soak into or filter over the ground., and/or creating filter strips and vegetated buffers are vegetated areas that receive runoff from adjacent impervious or managed turf surfaces and allow runoff to be slowed and filtered by plants and soil and to infiltrate into the ground

**Stream** means any channel of water delineated as a "stream" within the Vermont Hydrography Dataset, available through the Vermont Center for Geographic Information (VCGI).

**Street Line:** Edge of right-of-way of a street, either public or private, as dedicated by a deed of record. Where width of street is not established, the street line shall be considered to be twenty-five (25) feet from the centerline of the traveled way.

# Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Structure:** Anything constructed, erected or placed which requires a fixed location on the ground in order to be used. Included, in addition to buildings, are signs, garages, carports, porches, patios, swimming pools, and any other outbuildings and building features. Not included are sidewalks, driveways, and temporary or floating docks.

**Structure Height:** See Building or Structure Height

**Subdivider:** Any person, firm, corporation, partnership, or association, or any of these entities working in cooperation, who shall lay out for the purpose of sale or development or otherwise any subdivision or part thereof as defined in these regulations, either for himself or others. The term shall include an applicant for subdivision approval.

**Subdivision:** Division of any lot or parcel of land, after the effective date of these regulations, into two or more lots of any size, for the purpose of conveyance, transfer of ownership, improvement, building, development, or sale. The term subdivision includes re-subdivision.

**Substantial damage:** As defined in the Elmore Flood Hazard Regulations, as most recently amended.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. Within the Flood Hazard Area Overlay, this term shall be as defined in the Elmore Flood Hazard Regulations, as most recently amended. Also see Alterations.

**Telecommunications Facility:** A facility which is primarily for commercial, industrial or public communication or broadcasting purposes, to include towers or other supporting structures which extend vertically twenty (20) feet or more, equipment, buildings and parking areas, and other ancillary development (see Section 4.11).

**Town Plan:** The Elmore Town Plan as most recently adopted.

**Use:** The specific purpose or activity for which land or structures are arranged, designed or intended for, or for which either land or structures are or are intended to be occupied or maintained. See also Accessory Use.

**Vegetative cover:** Mixed vegetation within the Developed and Undeveloped Shoreland Districts, consisting of trees, shrubs, ground cover, and duff. This does not mean grass lawns, noxious weeds, or nuisance plants as defined by Agency of Agriculture, Food, and Markets.

**Vegetation Protection Standards:** The criteria used to maintain healthy shoreland vegetation within the Lakeside Zone. See Tables 2.5(F) and 2.6(F).

**Vermont Vernacular Design:** Building styles common in 18th and 19th century Vermont designed as described in *“The Historic Architecture of Vermont; Guide to Vermont Architecture”* (1996) published by the Vermont Division for Historic Preservation.

**Violation** means the failure of a structure or other development to be fully compliant with this bylaw. Within the Flood Hazard Area Overlay, this term shall be as defined in the Elmore Flood Hazard Regulations, as most recently amended.

## Town of Elmore – ZONING AND SUBDIVISION BYLAWS 20JAN20

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**Wetlands:** Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities. Includes all Class I & II (&III) wetlands, as shown on the Vermont State Wetland Inventory (VSWI).

**“Wildlife Travel Corridor:** A large area that permits the direct travel or spread of animals or plants from one area or region to another, either by the gradual spread of a species’ population along the route or by the movement of individual members of the species. Generally, this area is likely to include several specific wildlife road crossing areas and is characterized by undeveloped forested corridors, including forest cover reaching to road rights-of-way, which serve to link large tracts of unfragmented forest habitat”

**Window:** A portion of a building façade that allows at least 50% light transmission to the interior of a building, , including windows associated with a door.

**Yard:** An open space abutting all property lines of a lot, unoccupied by a structure from the ground upward, except as otherwise provided in these regulations. The required yard distances shall be determined in the same manner as the setback. See also Setbacks.