

# TOWN OF NEWFANE, VERMONT

## NEWFANE ZONING BYLAW

DRAFT REVISED VERSION  
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**Article 1**  
**AUTHORITY AND PURPOSE**

**Section 100 ENACTMENT AND PURPOSE**

- 101 Enactment.** Whereas the Town of Newfane has created a Planning Commission and has adopted and has in effect a plan under Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, herein referred to as the Act, there is hereby established zoning regulations for the Town of Newfane. These regulations shall be known as the “Town of Newfane Zoning Bylaw.”
- 102 Purpose.** The purpose of this Bylaw is to provide for orderly development within the Town of Newfane, to implement the *Newfane Town Plan* as most recently amended, and to further the intents and purposes of the Act.

**Section 110 EFFECTIVE DATE AND AMENDMENT**

**111 Effective Date**

1. In accordance with the Act, these regulations and any amendments thereto shall take effect 21 days after the date of their adoption by the Town of Newfane. (Originally adopted 5/16/75; amended 8/23/77, 5/8/79, 12/12/85, 11/6/86, 7/16/87, 2/22/89, 6/28/89, 6/5/03, 10/21/04, 12/1/05, 2/15/07, 10/04/08)
2. The zoning bylaw and zoning map for the Town of Newfane in effect prior to the adoption of this bylaw are hereby repealed as of the effective date of these regulations.

- 112 Amendment.** These regulations, including the boundaries of zoning districts established herein, may be amended from time to time, following public hearing, in accordance with requirements and procedures established in the Act.

**Section 120 APPLICATION AND INTERPRETATION**

- 121 Application.** The application of these regulations is subject to all subchapters of the Act as most recently amended. In accordance with the Act and except as hereinafter provided, no land development shall commence within the Town of Newfane except in conformance with these regulations. Land development, as defined in Article 2, shall not include customary maintenance activities. Any land development not specifically authorized under these regulations, unless otherwise exempted under the Act or the Newfane Subdivision Bylaw, shall be deemed to be prohibited.
- 122 Precedence of Regulations.** This Bylaw is intended to supersede the previous Bylaw as amended, but it is not intended to repeal, annul or in any way impair any other regulations or permits previously adopted or issues, or annul any easements, covenants or other agreements between parties. Where this Bylaw imposes a greater restriction upon

the use of a structure or land than is required by any other statute, ordinance, rule, regulation, deed restriction, easement, covenant, or agreement, the provision of this Bylaw shall apply in securing a zoning permit. Applicants for a zoning permit for the use of a structure or land shall be solely responsible for meeting the requirements of all other applicable local, state and federal regulations, laws and ordinances.

**123 Minimum Requirements.** In their interpretation and application, the provisions of this Bylaw shall be held to the minimum requirements adopted for the promotion of the public, health, safety, comfort, convenience and general welfare. Nothing in these regulations shall exempt any applicant for a permit from full compliance with all other state and municipal laws.

### **Section 130 SEVERABILITY**

Should any section or provision of these Bylaws be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these Bylaws as a whole, or any part thereof, other than the part so decided to be unconstitutional or invalid.

**Article 2**  
**ADMINISTRATION AND ENFORCEMENT**

**Section 200 DEVELOPMENT PERMIT REQUIRED**

**201 Purpose.** Zoning permits are required to assure the public and the applicant that development in Newfane is in conformance with this Bylaw.

**202 Applicability.** No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Newfane until a zoning permit has been issued by the Zoning Administrator or the development is specifically exempted from the provisions of these regulations under Section 203. Land development shall include the following and requires a zoning permit:

1. The division of a parcel of land into two or more parcels.
2. The construction, conversion, relocation or enlargement of a structure including roads or bridges;
3. A reduction in any established setback distance including setbacks from a property boundary, road way, right-of-way, stream or wetland;
4. Mining, excavation, landfill, or land disturbance including the extraction of earth and mineral resources
5. Any change in use, or extension of use of land or structures;

**203 Exemptions.** The following shall not require a zoning permit. These exemptions shall apply unless regulated otherwise in special flood hazard areas as outlined in Article 7 of this Bylaw.

1. Small accessory buildings associated with residential uses but not used for human occupancy which are less than 100 square feet of floor area and less than 14 feet in height, and are not located within required setback areas or Special Flood Hazard Areas. Written notification, including a sketch plan showing structure setback distances from property lines and surface waters shall be submitted to the Zoning Administrator prior to construction.
2. The interior repair, alteration or renovation of any building or structure so long as the activity does not change the use of the building or structure.
3. Any exterior, renovation or maintenance that does not change the existing footprint or dimensions, or the use of a building or structure.
4. Home occupations in accordance with Section 542 of these bylaws.



5. Accepted agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with §4413(d) of the Act. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
6. Accepted management practices (AMPs) for silvi-culture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with §4413(d) of the Act.
7. The construction or reconstruction of logging roads for the harvest of timber. (A road access permit may be required by the Select Board)
8. The installation of septic systems and drinking water systems designed, approved, and installed in accordance with the Vermont Wastewater System and Potable Water Supply Rules.
9. Stone walls not exceeding six (6) feet in height, agricultural fences, mailboxes, clotheslines, and lamp posts.
10. Subdivisions of land that require subdivision approval under the Newfane Subdivision Bylaw. Subsequent development on subdivided lots shall require a zoning permit in accordance with these regulations.
11. Residential entry stairs handicap access ramps, and walkways.
12. Grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 530.
13. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
14. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

**204 Application.** A permit application form designed by the Planning Commission and approved by the Select Board shall be used to implement these Bylaws. Applications are available upon request from the Town website, Town Clerk or Zoning Administrator. The applicant shall submit the completed application to the Zoning Administrator.

**205 Required Application Items.** Application for a zoning permit shall consist of the following:

1. A completed and signed Town application form with appropriate application fee.
2. A plot plan drawn to scale showing project(s) in relation to existing and proposed structures, property lines, acreage figures, all setbacks and compass points.
3. A recording fee as established by the Select Board is payable to the Town of Newfane and is non-refundable.
4. A Town Highway Access permit from the Select Board, if required.
5. Where required, documentation that applicable local and State reviews and approvals have been secured, including but not limited to site plan approval (Section 212.6), conditional use approval (Section 212.5), and the granting of a variance (Section 212.4), where required, under the provisions of this bylaw.

The Development Review Board (DRB) may require the applicant to submit additional information (e.g. approval letter from the appropriate fire company approving driveway design) if, in their judgment, such information is required before they can fulfill their duties as specified in this Bylaw.

**206 Completed Application.** The Zoning Administrator shall not issue a zoning permit without a completed application.

The construction of any building requiring the installation of on-site potable water supply and/or wastewater systems shall not commence until such time that a potable water supply and/or wastewater system permit has been issued by the State of Vermont under 10 VSA Chapter 64.

**207 Issuance.** A zoning permit shall be issued by the Zoning Administrator only in accordance with §4449 of the Act and the following provisions:

1. Within 30 days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to issue or deny a zoning permit in writing, or refer the application to the Development Review Board, and/or state for consideration. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.
2. No zoning permit shall be issued by the Zoning Administrator for any use or structure that requires the approval of the Development Review Board or Select Board until such approval has been obtained. For permit applications that must be referred to a State agency for review, no zoning permit shall be issued until a response has been received from the State, or the expiration of 30 days following the submission of the application to the State.

3. If public notice has been issued by the Select Board for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. In accordance with §4449(d) of the Act, if the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of the existing bylaw. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted under the 150-day period shall be reviewed again, at no cost, 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 under Section 214.
4. A zoning permit shall include a statement of the time within which appeals may be taken under Section 214, and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public road until the time for appeal has expired.
5. The Zoning Administrator, within three days of the date of issuance, shall deliver a copy of the zoning permit to the Listers, and shall post a copy of the permit in the Town Office for a period of 15 days from the date of issuance.

**208 Effective Date.** No zoning permit shall take effect until the time for appeal under Section 214 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

**209 Permit Expiration and Extension.**

1. Permits shall remain in effect for one year from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit and associated approvals shall be commenced within this period, or the zoning permit shall become null and void. For the purposes of this Bylaw, the completion of sufficient site work to enable the construction of the foundation of a structure and the construction of such foundation shall constitute commencement. Once a permit has expired, reapplication shall be required for a new zoning permit subject to any regulations in effect at the time of reapplication.
2. Prior to expiration of a zoning permit the Zoning Administrator may extend a zoning permit for a period not to exceed one year. A request for permit extension shall be made in writing prior to the expiration date of the zoning permit and shall include specific reasons and circumstance justifying the extension.
3. Site plan and conditional use approval shall expire with the expiration of the zoning permit, unless the DRB extends the completion date as part of its initial approval. Prior to expiration of the permit and upon a written request from the applicant, the

DRB may grant a one-time only extension of the site plan and/or conditional use approval and zoning permit for an additional 12 months.

## **Section 210 REVIEW CRITERIA AND PROCESS**

### **211 Zoning Administrator.**

1. Appointment. The Select Board shall appoint a Zoning Administrator to act as the Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the §4448 of the Act. The Select Board may remove a Zoning Administrator for cause at any time.

An acting Zoning Administrator may be appointed by the Select Board who shall have the same duties and responsibilities of the Zoning Administrator in that person's absence. In the event an acting Zoning Administrator is appointed, the Select Board shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

2. Duties. The Zoning Administrator shall administer literally and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Zoning Administrator shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Zoning Administrator shall provide the applicant with necessary forms. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

3. Authority. The Zoning Administrator is authorized to issue zoning permits only for the following land developments without approval of the Development Review Board:
  - a. Construction of new one or two family dwellings, provided that such construction is in conformance with the provisions of this Bylaw;
  - b. Additions, reconstructions and improvements to one or two family dwellings, provided that such construction is conformance with the provisions of this Bylaw;
  - c. Signs;
  - d. Residential accessory uses;

- e. Home child care serving no more than six (6) full time children and four (4) part-time children;
  - f. Group homes and residential care homes serving not more than eight (8) persons so long as it is not located within 1,000 feet of another existing or permitted group home or residential care home; and,
  - g. Pond less than 800 square feet in surface area.
4. Conformance with Bylaw. The Zoning Administrator shall issue no permit except in conformance with the provisions of this Bylaw.

## **212 Development Review Board.**

1. Establishment. There is hereby established a Development Review Board (hereinafter referred to as “the DRB”), members of which shall be appointed by the Select Board, in accordance with the provisions of §4460 of the Act.
2. Duties. The DRB shall have all the responsibility, powers and duties specified in the Act, including the hearing and deciding upon appeals brought under Section 224 of this Bylaw, hearing and deciding upon requests for variances under §4469 of the Act, and hearing and deciding upon requests for conditional uses within the district for which they are proposed.
3. Procedures. The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct. The officers of the DRB may administer oaths, compel the attendance of witnesses and the production of material relevant to any issue under appeal. All meetings shall be open to the public. The DRB may examine any property, maps, books or records bearing on matters concerned in such proceedings.
4. Granting of Variances.
  - a. The DRB may grant a variance to this Bylaw only if all the following facts are found and the findings are specified in its decision, as in Section 4469 of the Act:
    - i. 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 bylaw in the neighborhood or district in which the property is located;
    - ii. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of

the zoning bylaw and that the authorization or variance is therefore necessary to enable the reasonable use of the property;

- iii. Unnecessary hardship has not been created by the appellant;
- iv. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare;
- v. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning bylaw and from the plan.

b. On an appeal for a variance from the provisions of these regulations for a structure that is primarily a renewable energy resource structure, the DRB may grant a variance only if it finds that all of the facts listed in §4469(b) of the Act are found.

c. In addition to the requirements of subsection (a) above, variances for development in the Areas of Special Flood Hazard shall be granted by the DRB only in accordance with §4469 of the Act and the criteria for granting variances found in CFR, Section 60.6 of the National Flood Insurance Program.

5. Conditional Use Review. No Zoning Permit shall be issued by the Zoning Administrator for any use or development that requires a conditional use permit until the DRB grants approval. Conditional use review shall be required for the establishment, construction, alteration, or reconstruction of any use listed as a “conditional use” in Article 3.

In order to expedite the local review process, conditional uses are not subject to separate site plan review under Section 212.6. However, in order to better integrate site design with adjoining properties, site plan review criteria are incorporated here by reference for consideration under conditional use review.

In considering its action, the DRB shall make findings on the following, as well as any specific use standards that may apply:

- a. General Standards. The proposed conditional use shall not adversely affect:
  - i. The capacity of existing or planned community services or facilities;
  - ii. The character of the area affected as defined by the purpose or purposes of the zoning district within which the property is located and specifically stated policies and standards of the Town Plan;

- iii. Traffic on roads and highways in the vicinity;
  - iv. Any bylaws and ordinances of the Town of Newfane then in effect; and
  - v. Utilization of renewable energy resources.
- b. Site Plan Review. In addition to the general standards set forth in Section 212.5(a) above, the DRB shall also apply all applicable site plan review standards set forth in Section 212.6. Compliance with such standards shall be a requirement of conditional use approval.
6. Site Plan Review. Site plan review shall be required for the establishment, construction, alteration or reconstruction of any use listed as a “permitted use” under Article 3, except for single- and two-family dwellings and associated accessory structures, and other types of development that are specifically exempted from these regulations (see Section 203). Separate site plan review shall not apply to uses listed as “conditional uses” under Article 3, however site plan review *standards* shall be incorporated under conditional use review.

The DRB shall, after public notice and hearing, decide upon applications for site plan review. In considering its action, the DRB shall make findings on the following criteria:

- a. Maximum safety of vehicular, pedestrian, horse, and bicycle circulation between the site and the street network;
  - b. Adequacy of circulation, parking and loading facilities with particular attention to safety;
  - c. Adequacy of landscaping, screening and setbacks in regards to achieving maximum compatibility and protection of adjacent property.
  - d. The protection and utilization of renewable energy sources.
  - e. Other matters specified in these Bylaws that are directly related to the above aspects of the site plan review.
7. Decisions. Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of the DRB. In accordance with the §4464(b) of the Act, the DRB shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:
- a. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the

underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 214. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

- b. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.
- c. All decisions of a DRB shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

### **213 Reviews by State Agencies.**

In accordance with §4448(c) of the Act, the applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state related permits that may be required.

### **214 Appeals**

1. Appeal of a Decision of the Zoning Administrator. In accordance with §4465 of the Act, an interested person may appeal a decision or act of the Zoning Administrator by filing a written notice of appeal with the secretary of the DRB within 15 days of the decision or action.
  - a. Hearing. A public hearing shall be held by the DRB within 60 days of the filing of the notice of appeal.
  - b. Decision. The DRB shall render a decision in regards to the appeal within 45 days after completing the hearing, and shall within that period send to the appellant, by certified mail, a copy of the decision.
  - c. Exception. If the DRB considers the issues raised by the appellant in the appeal to have been decided in an earlier appeal or to be the same in substantially or materially the same facts by or on behalf of that appellant, the DRB may reject an appeal without hearing and render a decision. Such decision, including findings of fact, shall be rendered within 10 days of the filing of the appeal.
2. Appeal of a Decision of the Development Review Board. In accordance with §4471 of the Act, an interested person who has participated in a municipal regulatory proceeding on the subject may appeal a decision of the DRB to the State Environmental Court in the manner prescribed by the Act within 30 days of the



decision or action. Participation in the local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

## **Section 220 VIOLATIONS AND ENFORCEMENT**

- 221 Violations.** The commencement or continuation of any land development, subdivision or use that is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act. A person who violates any provision of these Bylaws shall be subject to a fine of not more than \$100 dollars for each offense. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute in the name of the town any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the town.
- 222 Notice of Violation.** Pursuant to the Act, no action may be brought under this Section unless the alleged offender has had at least seven 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 12 months.
- 223 Recording Requirements.** Within 30 days of the issuance of a violation, the Zoning Administrator shall deliver either the original or a legible copy of the notice of violation to the Town Clerk for recording in the land records.
- 224 Limitations on Enforcement.** The town shall observe any limitations on enforcement relating to municipal permits and approvals as set forth in the Act. Enforcement proceedings must be instituted within 15 years from the date the violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the Town and not the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit or approval issued after July 1, 1998 unless the permit or a notice of permit has been recorded in the town land records in accordance with Section 223.

**Article 3**  
**ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT STANDARDS**

**Section 300 ESTABLISHMENT OF ZONING DISTRICTS**

**301 Zoning Districts.** For the purpose of this bylaw, the Town of Newfane is divided into the following zoning districts, as described in the accompanying tables and depicted on the official zoning map, to be designated by the abbreviation set forth below:

Village District	(V)
Rural District	(RU)
Resource District	(RE)

**302 Official Zoning Map.**

1. The location and boundaries of said zoning districts are established as shown on the “Town of Newfane Official Zoning Map,” annex A, and the National Flood Insurance Program maps for the Town of Newfane, which are hereby adopted by reference as part of these regulations. The official zoning map 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.
2. The official zoning map shall be identified by the signature of the Chair of the Select Board, as attested to by the Town Clerk.
3. 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.

**303 Interpretation of Zoning District Boundaries.**

1. Boundaries between districts are indicated on the Zoning Map and described in this Bylaw. Where there is uncertainty, contradiction or conflict as to the intended location of any district boundary due to scale, lack of detail or illegibility of the maps, the Zoning Administrator shall make the interpretation. A determination of the Zoning Administrator regarding the location of a district boundary may be appealed to the Development Review Board.
2. In the case of lots lying in more than one district, the provisions of any district may be applied for a distance of not over thirty feet into any other adjacent district.

**Section 310 GENERAL DISTRICT STANDARDS**

1. The standards for each district shall apply uniformly to each use and/or structure, unless otherwise specified in these regulations. Non-conforming uses and non-

conforming structures, and non-conforming lots shall be regulated in accordance with Section 430.

2. The yard adjoining the street of your legal street address shall be considered a front yard (frontage) for the purpose of these regulations.
3. The maximum building height in all districts is 35 feet. Building height is measured exclusive of appurtenant structures or decorative features.

**Section 320 VILLAGE DISTRICT**

**321 Purpose.** The purpose of the Village District, map attached annex C, D & E, is to preserve the historic integrity and support the traditional role of the village as the focus of many of the social and economic activities that support the surrounding community, and to provide for residential and commercial development, as well as governmental uses that serve the needs of the village and the community.

**322 Permitted Uses.** The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200. Uses marked with an \* require Site Plan Review by the DRB in accordance with Section 212.6.

Accessory Dwelling Unit (see Section 511)	Lodge/Inn*
Accessory Use/Structure to a permitted use	Personal Services*
Artist Studio/Gallery*	Office (Professional/Business)*
Bank*	Public Facility (see Section 514)*
Bed and Breakfast*	Religious Institutions*
Cultural Facility*	Residential Care/Group Home (8 or fewer; see Section 513)
Funeral Home*	Retail*
Home Child Care (see Section 512)	Single-Unit Dwelling
	Two-Unit Dwelling

**323 Conditional Uses.** The following uses are allowed with Conditional Use approval by the DRB in accordance with Section 212.5:

Accessory Use/Structure to a conditional use	Motor Vehicle Service Station
Cemetery	Multi-Unit Dwelling
Child Care Facility	Outdoor Recreational Facility
Home Business (see Section 543)	Ponds (see Section 570), Bridges and Culverts
Hotel/Motel	Private Club
Indoor Recreation Facility	Public Facilities (see Section 514)
Light Industry	Public Utility Facility
Mixed Use (see Section 550)	Restaurant

**324 Area, Dimensional, and Coverage Standards.** The following requirements shall apply to all uses and structures:

Lot Area	1 acre
Additional Lot Area for each additional dwelling unit	.5 acre
Lot Frontage	90 feet
Front Yard Setback	35 feet
Side Yard Setback	15 feet
Rear Yard Setback	15 feet

**Section 330 RURAL DISTRICT**

**331 Purpose.** The purpose of the Rural District is to accommodate low to moderate density development that is consistent with existing land uses and sensitive to the limitations of the land and existing land uses. Limited commercial uses are allowed in a manner that avoids unreasonable burdens on town roads and services or other adverse impacts on the rural character of the district.

**332 Permitted Uses.** The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200.

Accessory Dwelling Unit (see Section 511) Accessory Use/Structure to a permitted use Home Child Care (see Section 512)	Residential Care/Group Home (8 or fewer; see Section 513) Single-Unit Dwelling Two-Unit Dwelling
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**333 Conditional Uses.** The following uses are allowed with Conditional Use approval by the DRB in accordance with Section 212.5:

Accessory Use or Structure to a conditional use Animal Hospital Artist Studio/Gallery Bed and Breakfast Campground (see Section 520) Cemetery Child Care Facility Contractor's Yard Cultural Facility Extraction of Earth Resources (see Section 530) Home Business (see Section 543) Indoor Recreation Facility Kennel Light Industry	Lodge/Inn Mixed Use (see Section 550) Mobile Home Park (see Section 560) Multi-Unit Dwelling Office (Professional/Business) Outdoor Recreational Facility Personal Service Ponds (see Section 570), Bridges and Culverts Private Club Public Facilities (see Section 514) Public Utility Facility Religious Institutions Residential Care or Group Home (more than 8 residents) Restaurant Retail
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**334 Area, Dimensional, and Coverage Standards.** The following requirements shall apply to all uses and structures:

Lot Area	2 acres
Additional Lot Area for each additional dwelling unit	1 acre
Lot Frontage	90 feet
Front Yard Setback	65 feet
Side Yard Setback	25 feet
Rear Yard Setback	25 feet

**335 Supplemental District Standards.**

1. Additional Use Standards. In addition to other standards set forth in these bylaws, with the Rural District.
2. Outdoor Storage. Outdoor storage of equipment and materials for non-residential uses shall only occur within designated areas, approved on the Site Plan by the Development Review Board. All outdoor storage areas shall be adequately screened from view.

**Section 340 RESOURCE DISTRICT**

**341 Purpose.** The purpose of the Resource District is to indicate the Town’s commitment to the proper management of and protection of sensitive areas that include large areas of land serving as watershed areas and/or are characterized by the presence of steep slopes, shallow soils, important wildlife habitat, and large blocks of unfragmented forest. These areas are generally in a natural state and contribute positively to the perception of the rural character.

**342 Permitted Uses.** The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200.

Accessory Dwelling Unit (see Section 511) Accessory Use/Structure to a permitted use	Home Child Care (see Section 512) Residential Care/Group Home (8 or fewer; see Section 513) Single or Two Unit Dwelling
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**343 Conditional Uses.** The following uses are allowed with Conditional Use approval by the DRB in accordance with Section 212.5:

Accessory Use/Structure to a conditional use Extraction of Earth Resources (see Section 530)	Home Business Outdoor Recreational Facility Ponds (see Section 570), Bridges and Culverts
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**344 Area, Dimensional, and Coverage Standards.** The following requirements shall apply to all uses and structures:

Lot Area	5 acres
Lot Frontage	90 feet
Front Yard Setback	65 feet
Side Yard Setback	25 feet
Rear Yard Setback	25 feet

**345 Supplemental District Standards.**

1. Additional Use Standards. In addition to other standards set forth in these bylaws, with the Resource District, the following standards and restrictions apply:
  - a. Outdoor Recreational Facilities shall be limited to open space and land based recreation uses (e.g. public forest, protected wildlife habitat, recreation trails), which are compatible with a forested environment.

## **Article 4 GENERAL STANDARDS**

### **Section 400 APPLICABILITY**

The following general bylaws, including provisions under the Act, shall apply to all uses and structures as specified.

### **Section 410 STATE REQUIREMENTS**

In accordance with §4412 of the Act, the following shall apply:

- 411 Existing Small Lots.** Any lot that is in individual and separate, nonaffiliated ownership from surrounding properties, lawfully in existence as of the effective date of these bylaws, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than 1/8<sup>th</sup> acre in area with a minimum width or depth dimension of forty (40) feet, and all other applicable requirements of these bylaws are met.
- 412 Required Frontage or Access.** Land development may be permitted only if there is adequate means of access, either frontage on a public road (Class 1, 2, 3, or 4) or access by means of a permanent easement or right of way to such a public road, or to public waters. Approval for access is granted by the Select Board. Access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way of up to 40 feet in width to ensure safe and adequate access. Access on a state highway must be permitted by Vermont Agency of Transportation.
- 413 Equal Treatment of Housing.** No part of these Bylaws shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the Town except upon the same terms and conditions as conventional housing is excluded. In addition, no zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in the Newfane Town Plan.

### **Section 420 CHANGE OF USE**

The change in use of land, existing buildings or other structures to another use is subject to the provisions of these bylaws as follows:

1. The proposed use shall be subject to all the requirements of these bylaws pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state or federal bylaws currently in effect.
2. 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 meets the lot size, setback, parking and other requirements applicable to the proposed use.

3. A change of use to a use allowed under section 211.3 shall require a zoning permit issued by the Zoning Administrator under that section.
4. A conversion or change of use to a use allowed with approval of the Development Review Board shall be reviewed and approved in accordance with section 212.
5. Changes involving nonconforming uses and/or structures also are subject to and will be reviewed under section 430.

### **Section 430 NON-CONFORMING USES, STRUCTURES, AND LOTS**

**431 Non-Conforming Uses.** Any use of a structure or land lawfully in existence as of the effective date of these bylaws, which does not conform to the uses allowed in the zoning district in which it is located, shall be considered a nonconforming use. A nonconforming use may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored by any means whatsoever, except as provided below:

1. Change. A non-conforming use shall not be changed, except to a conforming use.
2. Re-establishment. A non-conforming use shall not be re-established without the approval of the Development Review Board, if such use has been abandoned or otherwise discontinued for any reason for a period of 12 months, or has been changed to, or replaced by, a conforming use. Intent to re-establish a non-conforming use shall not confer the right to do so.
3. Resumption. A non-conforming use shall not be resumed after damage from any cause unless such use is resumed within 18 months of damage. A permit is required to resume the non-conforming use. If such use is not resumed within 18 months of damage, the non-conforming use shall be deemed to have been discontinued. Intent to resume a nonconforming use shall not confer the right to do so.
4. Expansion and Extension. No non-conforming use shall be expanded, extended, moved or enlarged unless the DRB finds that such expansion, extensions, movement or enlargement does not increase the degree of non-conformance. In no event shall a non-conforming use be expanded beyond the boundaries of the lot on which the non-conforming use originated. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees and an increase in the size of operation through the expansion of a complying structure.
5. Variance. No new non-conforming use shall be created under the variance provisions or any other provision of these bylaws.

**433 Non-Conforming Structures.** Any structure lawfully in existence as of the effective date of these bylaws, which is not in compliance with the provisions of these bylaws regarding lot size, density, height, setbacks, or other dimensional requirements for the district in



which it is located, or any other requirement of these bylaws, shall be considered a non-conforming structure. A non-conforming structure may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored by any means whatsoever, except as provided below:

1. Maintenance and Repair. A non-conforming structure may undergo normal maintenance and repair without a permit provided that such maintenance and repair does not increase the degree of, or create any new noncompliance.
2. Extension or Enlargement. Extensions or enlargements may be made to any conforming portion of the non-conforming structure in accordance with all applicable requirements of this Bylaw.
3. Repair or Reconstruction. A non-conforming structure may be repaired, restored or reconstructed, in the same non-conforming location, after damage from any cause provided that a zoning permit to repair, restore or reconstruct is issued within one (1) year after such damage occurred and that the repair, restoration or reconstruction does not increase the degree of non-conformance which existed prior to the damage. If a permit has not been applied for within the (1) year period, a variance for said reconstruction shall be required.

**434 Non-Conforming Lots.** Any lot lawfully existing at the time that this or any other Newfane Zoning Bylaw became effective and which does not comply with the regulations of the district in which is located shall be considered a non-conforming lot and shall be subject to the following provisions.

1. Notwithstanding the minimum lot area, frontage, and depth requirements set forth in Article 3 of this bylaw, non-conforming lots may be used for any permitted use in the district provided that the following minimum yard requirements are met:

Front Yard Setback	35 feet
Side Yard Setback	15 feet
Rear Yard Setback	15 feet

2. Such a non-conforming lot shall not be further reduced in area or frontage, and if it is subsequently combined with other land in such a way as to reduce or eliminate the non-conformity, it shall not again be subdivided except in accord with this Bylaw.

#### **Section 440 ABANDONMENT AND DEMOLITION OF STRUCTURES**

Within one year after a cessation of use of any structure which has been substantially damaged or destroyed, all debris shall either 1) be removed from the site, and any excavation or foundations thus remaining shall be covered or filled to the normal grade by the owner of the land; or 2) be secured with safety fencing that secures the property. Owners involved in legal proceedings resulting from the loss or damage of said structure shall comply with the above terms within one (1) year following the date of settlement of any such legal proceedings.

**Section 450 OFF-STREET PARKING AND LOADING**

**451 Off-Street Parking.** Off-street parking shall be provided in accordance with this section and when any use is established or enlarged unless otherwise approved by the DRB or waived under Section 563.

1. All parking lot proposals subject to DRB approval shall be reviewed relating to design, materials of construction, access, pedestrian safety and screening.
2. Drives shall intersect the road at right angles unless impractical due to site conditions.
3. All parking spaces shall have a minimum width of nine (9) feet and a minimum length of eighteen (18) feet, excluding access and maneuvering room.
4. All parking spaces shall be provided on the same lot or another lot or public off-street parking facility within a radius of 500 feet.
5. The DRB may require additional off-street parking and loading spaces for any use if they find the minimum spaces are not sufficient.

<b>Minimum Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
Dwelling unit, single family	2 per unit
Accessory Dwelling Unit	1 per unit
Dwelling unit, two or multi-family	2 per dwelling unit
Bed and Breakfast	1 space per rented bedroom, plus 2 spaces for the owner of the property
Motel/Hotel/Inn	1 per guest sleeping room plus 1 per each 2 employees on shift of largest employment
Restaurant/Bar	1 space per 3 patron seats or one 1 space per 100 square feet of gross floor area, whichever is greater, plus 1 space per employee on the largest work shift.
Public Assembly (church, theater, auction barn, auditorium, or other)	1 per 5 seats based on maximum seating capacity.
General Commercial (including retail stores, craft shops, and vendor markets)	1 per 200 square feet or portion thereof of floor space or outdoor yard space in the case of vendors markets used for the sale or display of merchandise
Office	1 per 250 square feet of gross floor area
Industrial Use (warehouse, manufacturer, processor)	1 per 2 employees on the largest shift
Other	As determined by the Development Review Board under site plan or conditional use review

**452 Loading and Service Areas.** Where a proposed development will require frequent or regular loading and unloading of people or goods, loading and service areas shall be provided on-site, in accordance with the following provisions:

1. In the case of retail, wholesale, and industrial buildings, 300 square feet of space, or as otherwise approved by the DRB, must be provided for loading and unloading trucks.
2. On-site service areas shall be provided as necessary for emergency vehicle access, recycling and waste collection facilities, snow storage and removal, or other purposes necessitated by the type and frequency of vehicle deliveries.
3. Unless specifically waived by the DRB, loading docks, trash collection and recycling areas, and similar service areas, shall be sited and screened on all sides so that no portion of such areas are visible from public streets and adjacent properties. Screening may include but not be limited to new and existing plantings, walls, fences, or screened panels.

**453 Waivers.** For development subject to review by the DRB, the DRB may waive, reduce, or otherwise modify on-site parking, loading and/or service area requirement under one or more the following provisions based on a determination that, due to circumstance unique to the development, the strict application of these standards is unnecessary or inappropriate:

1. The DRB may reduce the number of parking spaces required in the Village Districts where it can be shown that adequate on- or off-street public parking is available within 500 feet.
2. The DRB may waive the number of parking space required in any district where it can be shown that traffic volumes will be substantially less than anticipated.
3. The DRB may reduce the number of parking space required in any district when shared use of parking space is agreed to by two or more users who can demonstrate that their parking demands are at different times, and that meeting the requirements will jeopardize aesthetic and landscaping features the DRB deems essential to the proposed development. In the case of shared parking, the minimum number of spaces should be sufficient to meet the requirements of maximum simultaneous use.
4. The DRB may limit the number of parking spaces to a maximum number equal to or greater than the required minimum number of spaces, based on site considerations including aesthetics and landscaping features, use, traffic patterns, streetscape, and other relevant concerns.
5. The DRB may reduce the initial parking, loading or service area required in association with the dedication of one or more undeveloped areas, to be maintained as

landscaped open space, for potential conversion in the event that areas initially permitted are subsequently deemed inadequate by the DRB in relation to documented volumes of use.

## **Section 460 SIGNS**

**461 Applicability.** No sign shall be erected or affixed to a building exterior or placed freestanding on any premises or altered or moved, without a zoning permit issued by the Zoning Administrator except as otherwise specifically prohibited or exempted from this bylaw as listed under Table 4.1. All signs shall be on the property to which they pertain.

**Table 4.1: Exempted and Prohibited Signs**

<b>Exempted Signs</b>	<b>Prohibited Signs</b>
Historic plaques or markers no greater than two square feet affixed to a building.	Signs that impair highway safety.
National, state or corporate flags.	Rotating, revolving signs and flashing signs.
Non-advertising signs placed for directional, safety, or public service purposes (e.g. detour, road closed).*	Advertising signs or banners attached to utility poles or town sign posts.
Signs affixed to the interior side of a window visible from the exterior that advertise products or services available within the building, prices, payment methods or sales.	Changes made to the display of any sign that occurs more often than once in a 20 minute period, with the exception of a time/temperature display.
Temporary election signs to be posted and removed in accordance with state law.	Off-premises signs, except for those that conform to state laws.
Temporary signs that advertise lost pets and garage or yard sales to be promptly removed when it has fulfilled its function.*	
Temporary signs or banners advertising public or community events, to be displayed on town property with the permission of the Select Board, which shall be removed immediately following the event.*	
On-site temporary signs advertising the opening of a new business, not to be maintained for a period of more than 30 days.	
Signs relating to trespassing and hunting, each not to exceed two square feet in area.	
On-premise historic or landmark signs, not to exceed one in number or six square feet in area.	
One contractor job sign, not to exceed 32 square feet in area and not illuminated, may be placed on any site while work is underway providing such sign is promptly removed following completion of construction.	

Exempted Signs	Prohibited Signs
Two informational flags (e.g. open, sale, antiques) so long as they are not flown on a flag pole, placed at a height above 12 feet and do not exceed 24 square feet in size.	
One unlit real estate sign not exceeding six square feet in total area. Such sign shall be promptly removed when it has fulfilled its function. A corner lot is permitted to have two real estate signs.	

\*Sign is exempt from on-site requirement.

**462 General Sign Standards.** All signs, other than those specifically prohibited or exempted under Table 4.1, shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements relating to all signs:

1. There shall be no more than two signs on a premise of a size not to exceed 32 square feet in total area including appendages. Each surface of a sign shall be considered to be one sign.
2. Lighting shall be exterior light and hooded or covered so that the source of the light is not visible from the highway or beyond the property boundary, does not direct light upwards beyond the extent of the sign, and does not distract motor vehicles. Internally illuminated signs are prohibited.
3. On-premise signs to guide traffic and circulation or to protect public health and safety (e.g. “entrance only”, “exit only” and “parking behind the building”) shall not count against the sign total provided that the each sign does not exceed three square feet in area and there are no more than four of these types of signs.
4. Sandwich board signs shall not count against the sign total provided that they are in accordance with the following:
  - a. The number of sandwich board signs shall be limited to one per lot.
  - b. A sandwich board sign may be double-sided with not more than eight square feet per side.
  - c. Sandwich board signs shall be located on or directly in front of a parcel and are not subject to normal setback requirements; but they shall be located so as not to interfere with pedestrian or vehicular circulation and safety.
  - d. Sandwich board signs shall be removed during non-business hours.

**463 Temporary Signs.** All temporary signs require a zoning permit issued by the Zoning Administrator in accordance with the following:

1. Special Event Signs for Civic and Other Groups. The Zoning Administrator shall have the authority to issue a permit for the display of non-illuminated signs or banners on a temporary basis to any civic, religious, fraternal, political, non-profit or charitable group. Such permit shall specifically state the location or locations of such signs, their duration, and responsibility for removal. In no case shall any temporary sign approved under this section be displayed for more than 45 days in any 12 month period. There shall be no more than two signs of a size not to exceed 32 square feet in total area including appendages.
2. Banners. A business is allowed one two sided banner, not to exceed 16 square feet per side. Banners must be affixed to building walls, existing freestanding sign structures or with their own support system. They shall not be affixed to roofs. Banners may not be lit. No banner may be displayed on any one lot for more than 45 days within any 12 month period.

**464 Nonconforming Signs.** All non-conforming signs existing as of the date of adoption of this amendment are permitted as long as the non-conforming sign(s) are not moved, enlarged, or altered other than for normal maintenance and repair.

#### **Section 470 ENVIRONMENTAL PROTECTION**

- 471 Streams and Water Courses.** No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of 75 feet measured horizontally from the normal high water mark of all perennial streams such as West River, Rock River, Baker Brook, Marlboro Branch, Smith Brook, Wardsboro Brook, Hunter Brook or Adams Brook.
- 472 Wetlands.** No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least 50 feet in width from the delineated boundary of a Class 1 or Class 2 wetland as defined and regulated under the Vermont Wetland Rules, and as shown on the most recent *Vermont Significant Wetland Inventory Map for the Town of Newfane*.
- 473 Dams.** The damming of a stream constitutes “land development” and therefore requires a zoning permit. No dams may be constructed on the West River, Rock River, Baker Brook, Marlboro Branch, Smith Brook, Wardsboro Brook, Hunter Brook or Adams Brook
- 474 Steep Slopes.** No dwelling may be erected on land having a slope of greater than 25%.

## **Section 480 LIGHT AND GLARE**

**481 Application.** To ensure appropriate lighting while minimizing its undesirable effects, the following general standards shall apply to all outdoor lighting in all commercial, industrial and multi-unit developments requiring Site Plan approval from the DRB, as well as new and replacement lighting in commercial, industrial and multi-unit properties.

### **482 General Standards.**

1. Lighting shall be designed to adequately illuminate the site and parking areas without causing glare or excessive illumination on neighboring properties or streets. Glare from vehicle headlights shall be mitigated through location and design of egresses, landscaping and screening.
2. All outdoor light fixtures shall be shielded so that no direct light is projected above a horizontal plane passing through the light source.
3. Luminaires shall be placed not more than 16 feet above ground level and the maximum illumination at ground level shall not be in excess of .3 foot-candles.
4. Acceptable light sources are LED, metal halide, incandescent, neon tubing and fluorescent. All other light sources including any flickering or pulsing light are prohibited. Processes, which create light flashes such as, but not limited to, electric arc welding, shall be confined to buildings or shielded to prevent either glare or flashes reflected from the sky.
5. Outdoor fixtures shall only be illuminated during the hours of operation for non-residential uses unless specifically approved by the DRB. Hours of operation shall include any time up to one hour before or after all employees and patrons or customers have vacated the premises. Inns and Bed and Breakfasts are considered open on a twenty-four hour basis.
6. Lighting shall be located, shielded and maintained to prevent light trespass onto adjacent properties and public ways; measured at the boundary of the illuminated and adjacent property in excess of 0.1 foot-candles.
7. Electrical service to outdoor lighting fixtures shall be buried.

### **483 Exemptions to the Lighting and Glare Standards.**

1. Lighting of the American flag.
2. Historic monuments and statues.
3. One and two-family residential properties.

4. Municipal street lighting.
5. Emergency safety lighting.
6. Fixtures of 1650 lumens or less, which are equivalent to a 150-watt incandescent light bulb.
7. Decorative holiday lighting for a temporary period.
8. Security lighting controlled by sensors set to provide illumination for a maximum of 15 minutes.

**484 Prohibited Lighting.** Specifically prohibited by this bylaw are all types of flashing, blinking, moving or apparently moving light sources intended to attract attention to a business location. Searchlights and laser beam lights for attracting attention are also prohibited.

**485 Non-Conforming Luminaires.**

1. Any luminaire lawfully in place prior to this bylaw shall be allowed to remain indefinitely except in the case of change, repositioning or replacement described below.
2. Any significant change or replacement to an existing luminaire, such as lamp type, structural alteration, movement, repositioning, replacement or removal of the luminaire cover must meet the standards of this bylaw.

**Section 490 TEMPORARY USES**

A temporary zoning permit may be issued by the Zoning Administrator for the uses listed below for a period of one year, conditioned upon written agreement by the owner to remove the structure or cease the use upon expiration of the permit, except where otherwise indicated below. If the permitted activities have not been completed within this period, a new permit for a temporary zoning permit shall be required. The combined maximum duration for such a use shall not exceed two years or until the project is complete, whichever is sooner. In no case shall a temporary zoning permit be issued for development in the Special Flood Hazard Area as defined in Article 6.

1. Construction and Sales Trailers. Temporary buildings, including but not limited to, construction and sales trailers, and storage of materials are permitted in conjunction with the construction of a building, buildings, subdivision, infrastructure, or development when limited to the duration of the construction. Temporary buildings may be erected after subdivision plat or site plan approval so long as zoning requirements are met for the lot on which the temporary buildings are placed and appropriate building permits have been obtained.



3. Temporary dwelling unit in conjunction with construction of a dwelling. The erection and occupancy of a temporary dwelling for up to twelve (12) months, which may be extended by the Zoning Administrator in 6 month increments, is permitted during the construction of a dwelling on the same lot subject to obtaining a zoning permit.

DRAFT

## ARTICLE 5

### SPECIFIC USE STANDARDS

#### **Section 500 APPLICABILITY**

In addition to the review criteria in other sections of this bylaw, the following standards shall apply to specified uses in all zoning districts in which such uses are allowed. Variances from these standards shall not be granted by the DRB.

#### **Section 510 STATUTORY REQUIREMENTS**

##### **511 Accessory Dwelling Units.**

1. Permitted Use. One accessory dwelling unit within, attached, or in an accessory structure to a single family dwelling shall be considered a permitted use of the property. Such use shall require a permit issued by the Zoning Administrator in accordance with Section 210 and shall meet the following:
  - a. The property shall have sufficient wastewater capacity;
  - b. The floor area of the accessory dwelling unit shall not exceed 30% of the total habitable floor area of the single family dwelling; and
  - c. The accessory dwelling unit shall meet all applicable setback, coverage, and parking requirements as specified in the bylaw.
2. The permit for an accessory dwelling unit shall clearly state that the dwelling is an accessory structure to a single family residence and shall be retained in same ownership.

##### **512 Home Child Care.**

1. Serving six or fewer children. In accordance with the §4412(5) of the Act, a state registered or licensed child care home serving six or fewer children on a full-time basis, which is conducted within a single unit dwelling by a resident of that dwelling shall be considered a permitted use of the property. Such uses shall require a permit issued by the Zoning Administrator in accordance with Section 210.
2. Serving no more than six full-time and four part-time children. A child care home serving no more than six full-time and four part-time children, as defined in 33 VSA §4902(3)(A) shall be considered to constitute a permitted use of a property but requires site plan approval.

##### **513 Group Homes/Residential Care Homes.** In accordance with §4412(1)(G) of the Act, state licensed or registered residential care or group homes for not more than eight

persons who have a handicap or disability as defined in 9 VSA §4501 shall be considered to constitute a permitted single family residential use of property, except that no such home shall be considered a permitted use if it is located within 1,000 feet of another existing or permitted group or residential care home.

**514 Public Facilities.** In accordance with §4413 of the Act, the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended 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, and parish houses;
4. Public and private hospitals;
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159; and
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

## **Section 520 CAMPGROUNDS**

**521 Applicability.** A new or expanded campground for tents, travel trailers, or recreational vehicles, consisting of three or more camp sites on a single parcel of land, may be permitted subject to conditional use review by the Development Review Board and the following requirements:

**522 Layout and Design Standards.** Campgrounds shall be designed in accordance with the following standards:

1. An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite. The parking area may be common.
2. Each site shall be at least 2,500 square feet in area, provided however that there shall be no more than 10 campsites per acre.
3. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least 25 feet in width.
4. Each site shall be located in a clean, dry and well-drained area.

5. The campground shall meet minimum setback requirements for the district in which it is located. Buffer areas of at least 50 feet in width along property boundaries, and 100 feet in width along public rights-of-way and waters, are to be maintained. Buffer areas shall not be included in the calculation of open space under Section 522.8. No building, camp site, parking or service area shall be located in a buffer area. Landscaping and/or fencing along property boundaries, within designated buffer areas, shall be provided as appropriate for screening, security, and privacy.
6. Each site shall have access to water and sewage disposal in compliance with regulations of the VT Department of Environmental Conservation.
7. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.
8. All campgrounds shall keep at least 25% of the total ground area for recreation or open space purposes.

### **Section 530 EXTRACTION OF EARTH RESOURCES**

**531 Applicability.** The extraction or removal of topsoil, sand, gravel or other similar material for commercial purposes (except where incidental to any development lawfully undertaken in accordance with these regulations) may be permitted subject to conditional use approval (Section 212.5).

**532 Application Requirements.** An application to the DRB for review shall include, at a minimum, plans showing:

1. Existing grades, drainage and depth to water table;
2. Location of areas for on-site storage and/or processing of material;
3. The extent and magnitude of the proposed operation including proposed project phasing; and
4. Erosion control measures to be employed throughout the operation.
5. A Site Restoration Plan that describes the measures to be used following the conclusion of operations, including finished grades and drainage patterns;

**533 Review Criteria.** In granting approval, the DRB shall also find that the proposed extraction operation meets the following:

1. The operation shall not:

- a. cause any hazard to public health and safety, or
  - b. have an undue adverse effect on neighboring properties, property values or public facilities and services, surface water and groundwater supplies, or natural, cultural, historic or scenic features.
2. Proper drainage and storm water control shall be provided during and after the completion of operations.
  3. The operation shall not result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work.
  4. The operation shall provide for restoration of the area including but not limited to necessary grading, drainage, replacement of loam or other suitable soil cover to support permanent vegetation and prevent soil erosion. Restoration of the site shall be carried out in phases, as excavation work is completed. The Site Restoration Plan shall identify and define each phase of the site restoration process.
  5. In accordance with the Act, a performance bond, escrow account, or other form of surety acceptable to the Select Board shall be required as a condition of approval to ensure that, upon completion of the operations, the site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare and in conformance with the Site Restoration Plan.
  6. The operation shall not undermine any road or structure.
  7. Adequate vegetative buffers or other screening shall be retained at all times between the operation and abutting properties.

#### **Section 540 HOME BASED OCCUPATIONS & HOME BUSINESSES**

**541 Applicability.** The following categories of home-based businesses are allowed in accordance with the associated standards.

**542 Home Occupation.** In accordance with the §4412(4) of the Act, no provision of this Bylaw shall prevent a person from using a minor portion of a dwelling and/or accessory structure for the conduct of an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the surrounding area or neighborhood. The Zoning Administrator shall determine whether the proposed use is a home occupation as defined by the following:

1. The home occupation is conducted on site by residents of the dwelling unit and no more than one non-resident employee at any one time.
2. The home occupation occupies less than 50% of the floor area of the dwelling unit.

3. The home occupation does not involve the conduct of business with more than occasional on-site visits from clients or customers.
4. The home occupation does not involve the outside storage of materials or equipment that is uncharacteristic of a residential use.
5. The home occupation shall meet the parking requirements of Section 450.

**543 Home Business.** A home occupation which exceeds one or more of the standards set forth in Section 542 may be permitted as a home business with the approval of the Development Review Board as a conditional use in accordance with Section 212.5 and in accordance with the following provisions:

1. The home business occupies an area less than 50% of the floor area of a dwelling unit in either the dwelling unit or an accessory structure located on the same lot.
2. The home business is conducted by residents of the dwelling unit and involves not more than three non-resident employees at any one time.
3. Structures, storage, and parking facilities used for the Home Business shall not cover more than 45% of the lot area. This is not intended to limit areas associated with the residential use of the property.
4. Outside storage of materials, equipment, and vehicles shall be screened from the adjacent roads and properties.
5. The home business shall not have an undue adverse effect on the character of the residential area in which the dwelling is located.
6. No more traffic is generated than would normally be expected from a residential use in the neighborhood.
7. In the Rural District and Resource District only, contractors may operate a home business provided all equipment, vehicles, materials, and structures pertaining to the Home Business are fully screened from the public right-of-way and adjoining properties.
8. No more than seven employees of the business will be allowed to leave their vehicles on-site and/or pick up construction equipment to be used off-site.
9. Off-street parking conforms to the standards of Section 450.
10. The zoning permit clearly states that the use is limited to a home business, approved in accordance with the above provisions, which is accessory to the residential use and shall be retained in common ownership and management.

### **Section 550 MIXED USES**

In designated districts, more than one compatible principal use may be permitted within a single building or on a single lot subject to conditional use approval (Section 212.5) and the following provisions:

1. Each of the proposed uses is an allowed use (either permitted or conditional) within the zoning district in which the mixed use is located.
2. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum lot size, frontage and setback requirements. Regardless of the number of uses, the lot shall only need to meet the minimum lot size for the district in which it is located.
4. The mixed use meets all applicable general regulations under Article 4, including but not limited to sign and parking requirements.
5. The total amount of parking required for a mixed use shall be based on cumulative parking demand for each individual principal use.
5. The entire cumulative development including structures, driveways, and parking facilities shall not cover more than 65% of the lot area.

### **Section 560 MOBILE HOME PARKS**

**561 Applicability.** A new or expanded mobile home park may be allowed in designated zoning districts subject to conditional use approval by the Development Review Board (Section 212.5) and the provisions of this section. The division of a lot into mobile home park sites does not constitute a subdivision as set forth in the Newfane Subdivision Bylaws.

All standards applicable to dwellings in the district within which the mobile home park is located shall apply equally to dwellings located within the park, unless otherwise specified below.

**562 Siting Requirements.** All mobile home parks shall be sited on a lot that is:

1. A minimum of five acres in area; and
2. Served by a public or community water and wastewater system.

**562 Application Requirements.** In addition to the application information required under Section 205, the applicant for a mobile home park shall also submit a site development plan that shows the following:

1. A boundary line survey of the proposed land to be developed as a mobile home park.
2. The locations and dimensions of proposed streets, lots, and easements, with lots and streets identified by number and proposed name, respectively.
3. Designated mobile home sites;
4. Existing and proposed mobile home footprints, including existing buildings on adjoining lots within 100 feet of the boundaries of the mobile home park;
5. Existing and proposed vehicle, bicycle, and pedestrian circulation, including access, park roads, pedestrian paths and parking areas;
6. Existing and proposed open space and common areas;
7. Existing and proposed infrastructure including water and wastewater systems, utilities, drainage and stormwater management systems, and associated easements or rights-of-way; and
8. A landscaping plan.

**563 Design and Siting Standards.**

1. No mobile home park shall have an overall density greater than four dwelling units per acre. The mobile home park may be developed using the cluster concept in which lots are not required to conform to the minimum lot size, frontage, and setbacks as required in Article 3, but must conform to the requirements of this section.
2. Each individual mobile home shall be located on a site having a minimum width of 50 feet and a minimum area of 7,260 square feet. Each mobile home site shall be clearly defined.
3. The mobile home park shall meet all setback requirements for the district in which it is located. A landscaped buffer strip, not less than 20 feet in width, shall be provided along all property lines.
4. Each mobile home, and associated accessory structures, shall be setback a minimum of 20 feet from adjoining sites and roadways.
5. Open space for recreation and playground purposes, occupying not less than 10 percent of the gross mobile home park area, shall be provided in a convenient location(s) for use by park residents. Such open space shall be suitably landscaped, equipped and furnished, and screened or protected from parking and service areas.



6. Access to all lots within a mobile home park shall be from interior streets or drives; mobile homes shall not be placed in such a manner that continuous access is provided along existing streets.
7. There shall be at least two parking spaces per mobile home, both of which shall be located on the mobile home site. Common parking areas for the use of residents may also be provided.

## **Section 570 PONDS**

**571 Purpose.** To protect the lives and property of citizens, the infrastructure of the community; and the health of the natural environment, the construction of ponds shall require a zoning permit. The purpose of regulating said construction is to reduce the possibility of failure from improper design or construction, to minimize potential flood damages incurred to upstream properties by the storage of flood waters, and to minimize the damages caused by the sudden release of stored waters from a failure of the dam or intentional rapid draining of the impoundment.

**572 General Requirements.** The creation of a pond or other water impoundment constitutes land development and requires a zoning permit as follows:

1. A pond larger than 800 square feet in surface area shall require conditional use review.
2. Any pond that will impound, or be capable of impounding more than 500,000 cubic feet of water must receive a permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 43.
3. If the project necessitates any work in a stream, a stream alteration permit or other approval is required from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41 and/or the Vermont Department of Fish and Wildlife in accordance with 10 V.S.A. Chapter 111.
4. If the project has an effect on wetlands; rare, threatened, or endangered species; or the passage of fish; permits from other state or federal authorities may be required.
5. Any pond involving the impoundment of water through the creation of an embankment, berm or other structure that exceeds the natural grade must provide documentation from a civil or structural engineer licensed in Vermont of the likely results of catastrophic failure of the impoundment. This exercise is not to evaluate the likelihood of failure but to examine worst case scenarios (terrorism, major accident, extreme negligence, etc.).
6. All impoundments must have an emergency spillway, designed by a civil or structural engineer licensed in Vermont, capable of passing flows that exceed what the control structure is capable of handling.

7. Any pond, impoundment of a pond or portion of a pond or impoundment, located within an area of special flood hazard, is subject to Article 6 of this bylaw.

**573 Review Criteria.** All ponds and other impoundments larger than 800 square feet in surface area are subject to conditional use review. In granting approval, the DRB shall find that the proposed pond is located where failure of the embankment, berm, or other structure would not cause:

1. Loss of life;
2. Injury to persons or livestock;
3. Damage to residences, commercial or industrial buildings;
4. Damage to roads, bridges, culverts, railroads or other infrastructure; or
5. Interruptions of public utilities.

**574 Conditions of Approval.** The DRB may require, as a condition of approval, the applicant show proof of receipt of any required state or federal permits prior to construction. Upon issuance of conditional use approval, the ZBA shall duly note that the owner of the property is responsible for the pond's safety and liable for its failure if he or she does not maintain, repair, or operate the pond in a safe and proper manner.

### **Section 580 SMALL WIND ENERGY FACILITIES**

**581 Applicability.** Small wind energy systems are allowed on any lot in any district as an accessory use subject to the limitations in this Section.

1. A small wind energy system with one tower with a height of less than 100 feet shall be considered a permitted use subject to site plan review under Section 212.6 and the standards in Section 592.
2. A small wind energy system with one or more towers with tower heights of 100 feet or more shall be considered a conditional use and be subject to conditional use review (Section 212.5). The standards in Section 592 shall also apply. In addition to the conditional use standards, the Development Review Board shall find that:
  - a. the requested height of the tower does not exceed what is necessary to provide efficient operation of the system; and
  - b. all reasonable measures have been taken to minimize the visual impact of the system.

**582 Standards for Small Wind Energy Systems.** All small wind energy systems shall conform to the following standards:

1. A wind tower for a small wind system shall be setback a distance equal to one-hundred fifty percent (150%) or greater of the tower height from:
  - a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
  - b. Any overhead utility lines; and
  - c. All property lines.

**583 Expiration and Abandonment.**

1. Permit Expiration. A permit issued pursuant to this Section shall expire if the small wind energy system is out-of-service or otherwise unused for a continuous 12-month period.
2. Abandonment. A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the small wind energy system has not been abandoned.

If a small wind energy system is determined to be abandoned, the owner of the small wind energy system shall remove the entire wind energy system at the Owner's sole expense within three months of receipt of Notice of Abandonment. If the owner fails to remove the system, the Zoning Administrator may pursue a legal action to have the small wind energy system removed at the Owner's expense.

**Article 6**  
**FLOOD HAZARD AREA REGULATIONS**

**Section 600 AUTHORIZATION AND PURPOSE**

- 601 Authorization.** To effect the purpose of 10 VSA Chapter 32, and in accordance with Section 4424 of the Act, there are hereby established Flood Hazard Area Regulations for those areas of special flood hazard in the Town of Newfane.
- 602 Purpose.** It is the purpose of these Regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas and to minimize losses due to flooding.

**Section 610 FLOOD HAZARD AREA MAP**

These regulations shall apply to all areas in the Town of Newfane identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 VSA §753, which are hereby adopted by reference and declared to be part of these regulations.

**Section 620 PERMITS, APPLICATION AND PROCEDURES**

- 621 Development Permit Required.** A permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Prior to being permitted by the Zoning Administrator, conditional use approval by the Development Review Board is required for,
1. New buildings,
  2. Substantial improvement of existing buildings, and
  3. Development in a floodway

All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

- 622 Application Submission.** Application for a permit for land development in a flood hazard area shall be made to the Administrative Officer, who shall transmit such application to the Development Review Board for review and consideration as provided by these Regulations.

1. Application Requirements. Application submission requirements shall include, but are not limited to:
  - a. Two copies of plans drawn to scale showing the nature, location, dimensions and elevations of the lot;
  - b. Existing and proposed structures including the elevation of the lowest habitable floor including basement and certifications to whether such structures contain a basement;
  - c. Proposed fill and/or storage of materials;
  - d. The method and levels to which any structure will be flood-proofed and certification by the applicant's engineer or architect that the design and proposed methods of construction are in accordance with the flood proofing requirements of these regulations;
  - e. The relationship of the proposal to the location of the channel;
  - f. Base flood elevation data for subdivisions and other proposed development which contain at least 50 lots or five acres, whichever is smaller; and
  - g. Such additional information as the Development Review Board may require.
2. Procedures.
  - a. Conditional Use Approval. Land development including new buildings, substantial improvement of existing buildings, and development in a floodway may be permitted only by approval of the Development Review Board as a conditional use in accordance with the standards and requirements of these regulations.
  - b. State Review. Prior to issuing a permit for any development in a flood hazard area, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with Section 4424 of the Act. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
  - c. Notification. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies

of such notification shall be submitted to the Administrator of the National Flood Insurance Program.

- d. State and Federal Approvals. Prior to approval by the Development Review Board, proposed development shall be reviewed by the Administrative Officer to assure that all necessary permits have been received from those governmental agencies from which approval is required by State, Federal, or Municipal law.

### **Section 630 BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS**

- 631** Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the provisions of these regulations.
- 632** In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer and enforce the provisions of these regulations.
- 633** Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill), shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

### **SECTION 640 DEVELOPMENT STANDARDS**

Prior to approving a conditional use permit for any development in flood hazard areas, the Development Review Board shall find that the proposed development meets or exceeds the following standards, as well as all other provisions of this Newfane Zoning Bylaw.

#### **641 Floodway Areas**

1. Development within the floodway is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
2. Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

**642 Fringe Areas (i.e., special flood hazard areas outside of the floodway)**

1. All development shall be designed (1) to minimize flood damage to the proposed development and to public facilities and utilities, and (2) to provide adequate drainage to reduce exposure to flood hazards.
2. All development, shall be reasonably safe from flooding and: (1) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (2) be constructed with materials resistant to flood damage, (3) be constructed by methods and practices that minimize flood damage, and (4) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. Watercourse Carrying Capacity. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
4. Water Supply and Sanitary Sewage Systems. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
5. On-Site Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. Residential Development.
  - a. The lowest floor, including basement, of all new construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall be at or above the base flood elevation.
  - b. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
    - (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at or above the base flood and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
    - (ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the

lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored system to resist flotation, collapse, and lateral movement.

7. Non-Residential Development.

- a. New construction and existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.<sup>1</sup>
- b. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards or practice for meeting the provisions of this subsection.

8. Subdivisions.

- a. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or five acres, whichever is the lesser, shall include base flood elevation data.
- b. Subdivisions (including manufactured home parks) shall be designed to assure:
  - (i) such proposals minimize flood damage within the flood-prone area,
  - (ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - (iii) adequate drainage is provided to reduce exposure to flood hazards.

9. Enclosed Areas Below the Lowest Floor.

- a. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

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<sup>1</sup> Note: While buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.



- b. All new construction and substantial improvements to existing buildings with fully enclosed areas below the lowest floor (such as crawl spaces) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, to meet or exceed the following minimum criteria:
    - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
    - (ii) the bottom of all openings shall be no higher than one foot above grade;
    - (iii) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
10. Recreational Vehicles. Recreational Vehicles placed on sites with special flood hazard areas shall either:
- a. be on site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use, or
  - c. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section 9412 (f).
11. Accessory Structures. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
- a. shall not be used for human habitation,
  - b. shall be designed to have low flood damage potential,
  - c. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
  - d. shall be firmly anchored to prevent flotation,
  - e. shall have service facilities such as electrical and heating equipment elevated or flood-protected.
12. An evacuation plan for mobile home parks proposed in the Flood Hazard Area shall be submitted to the Emergency Management Coordinator indicating alternative vehicular access and escape routes.

13. Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited in fringe areas.
14. Such additional conditions as deemed necessary by the Board in order to meet the purposes and flood hazard area management requirements of these zoning regulations.

### **Section 650 ADMINISTRATION AND ENFORCEMENT**

**651 Administrative Officer.** The Administrative Officer shall maintain a record of:

1. All permits issued for development in areas of special flood hazard;
2. The elevation, (consistent with the datum of the elevation on the NFIP maps for Newfane), of the lowest habitable floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement;
3. The elevation, (consistent with the datum of the elevation on the NFIP maps for Newfane), to which the structure was flood-proofed;
4. All flood-proofing certifications required under this regulation.
5. All variance actions, including justification for their issuance.

**652 Variances.** Variances shall be granted by the Development Review Board only:

1. In accordance with Section 4469 of the Act;
2. In accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

**653 Development Review Board Secretary.**

1. Notification. The Secretary of the Development Review Board shall notify the applicant that:
  - a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance;
  - b. Such construction below the base flood elevation increases risks of life and property.
2. Record Keeping. The Secretary of the Development Review Board shall:

- a. Maintain a record of all variance actions, including justification for their issuance;
- b. Report such variances issued under Section 9520 in its annual report to the Federal Insurance Administrator.

**654 Enforcement and Penalties.** It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **Section 660 PRECEDENCE OF REGULATIONS**

The provisions of these regulations shall take precedence over any conflicting and less restrictive local laws. The provisions of these regulations shall not in any way impair or remove the necessity of compliance with any other applicable ordinances.

#### **Section 670 WARNING OF DISCLAIMER OF LIABILITY**

These regulations do not imply that land outside of the Special Flood Hazard Area of land use permitted within such districts will be free from flooding or flood damage. These Regulations shall not create liability on the part of any town, town officials or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

## **Section 680 FLOOD HAZARD AREA DEFINITIONS**

The following definitions shall apply only to this article and shall not be affected by the provisions of any other section of this bylaw.

**Base Flood** – Means the flood having a one percent chance of being equaled or exceeded in any given year.

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

**Development** – For floodplain management purposes, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

**Expansion to an existing manufactured home park or subdivision** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood Insurance Rate Map (FIRM)** - An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

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

**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

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

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

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

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

**New manufactured home park or subdivision** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

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

**Special Flood Hazard Area** - The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

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

**Structure** - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

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

**Substantial improvement** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**Violation** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

DRAFT

## **Article 7 DEFINITIONS**

Unless otherwise expressly stated, the following words and phrases shall be construed throughout these Bylaws to have the meaning indicated in this Article.

Unless the context clearly indicates to the contrary, words used in the present tense include the future, the singular number includes the plural and the plural includes the singular.

The word “shall” is mandatory, not discretionary; the word “may” is permissive.

The word “lot” includes the word “plot.”

**Accessory Dwelling Unit:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to the single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. § 4412(1)(E).

**Accessory Structure:** A structure that is incidental and subordinate to the primary structure on a lot. Examples include garages and storage sheds.

**Accessory Use:** A use which is customarily incidental and subordinate to the principal use of a lot or parcel of land, is located on the same lot as the primary use, and is clearly related to the principal use.

**Acre:** A parcel of land with a surface area of 43,560 square feet.

**Act:** The Vermont Planning and Development Act 24 V.S.A., Chapter 117.

**Agriculture:** Land which is used for raising livestock, the growing and harvesting of crops, orchards, tree farms, maple sugar stands, riding and boarding stables, nurseries and greenhouses, farm structures, and as an accessory use, the wholesale or retail sale of agricultural products grown on the premises where it is produced. For the purposes of these bylaws, agriculture does not include slaughterhouses.

**Alteration:** Structural change, rearrangement, change of location, or addition to a building, other than regular repair and maintenance to the building and modification of equipment in the building.

**Animal Hospital:** A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-term boarding and shall only be incidental to such hospital use.



**Appurtenant Structure:** Secondary structure either attached to a primary or accessory building or free standing including but not limited to towers, antennae, flag poles, and chimneys.

**Artist Studio:** Work space for individuals engaged in the application, teaching or performance of one of the fine arts or an applied art or craft.

**Bank:** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

**Banner:** A sign having the characters, letters, illustrations or ornamentations applied to cloth, paper, fabric or other lightweight material, with only such material for a backing. The definition of banner does not include flags.

**Bed & Breakfast:** A single family dwelling occupied by the owner or operator, in which not more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; food and beverage service shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests.

**Buffer:** Any space between adjoining uses intended and designed to reduce the impact of one use upon the other including open space, woodland, landscaped areas, and other types of visual and sound barriers.

**Building:** Structure, not readily moveable, consisting of a roof supported by columns or walls intended for the shelter or enclosure of persons, animals, or personal property including any storage tanks.

**Building Height:** Height should be measured as the vertical distance from the average ground elevation at finished grade around the exterior walls of a structure to the highest point of the highest structural member.

**Campground:** A parcel of land upon which three or more campsites are located for occupancy by a tent, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes.

**Cemetery:** Land used or dedicated to the burial of the dead, including as accessory structures mausoleums or maintenance facilities, but excluding crematoriums. An individual or family burial site on private land, registered with the Newfane Town Clerk in accordance with state law, is exempted from this definition.

**Change of Use:** To alter or vary the function, service or purpose of a building, structure or parcel of land. Any change of use from one category to another (i.e. residential to commercial) or within a category of use (i.e. one conditional use to another), one manufacturing use to another,

or from a single family use to a two family use or multi-family use. A change of use shall also include a change of character of the business activity (i.e. retail to wholesale).

**Child Care Facility:** A state registered or licensed child care facility, other than home child care, including any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is the protection, care, and supervision of more than six persons outside their homes for periods of less than twenty-four hours a day by a person other than the person's own parent, guardian or relative.

**Cluster Development:** A development design technique that concentrates buildings in specific areas of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**Commencement of Construction:** The completion of sufficient site work to enable the construction of the foundation of a structure and the construction of such foundation.

**Conditional Use:** Activity which shall not adversely affect the capacity of existing community services or facilities, the

**Contractor's Yard:** A parcel of land with or without buildings thereon to be used for the outside storage of equipment, materials, and/or vehicles used in the operation of construction and related trades that take place off-site. Customary accessory structures and/or uses may include a small office, and storage and maintenance facilities for equipment and vehicles.

**Cultural Facility:** A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**DRB:** Abbreviation for the Town of Newfane Development Review Board.

**Dwelling, One-Unit or Family:** Detached building used for one dwelling unit only, including attached appurtenant building or buildings.

**Dwelling, Multi-Unit:** A building or portion thereof, designed, occupied or used for three or more dwelling units independent of each other.

**Dwelling, Two-Unit or Family:** A building containing two dwelling units independent of each other. Includes attached appurtenant building or buildings.

**Dwelling Unit:** One or more rooms designed, occupied or intended for occupancy as separate living quarters, with full cooking, sleeping, and sanitary facilities provided for the exclusive use of a family or individual maintaining a household.

**Excavation:** Any breaking of ground, except common household gardening and ground care.

**Extraction of Earth Resources:** A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone, rock or organic substances other than vegetation,

from land or water. Customary extraction operations include sand and gravel pits, rock quarries, and accessory operations such as the crushing, screening, and temporary storage of materials excavated on-site.

**Family:** Any number of individuals related by blood, adoption, marriage, or civil union, or up to five unrelated persons, living together as a household.

**Foot-Candle:** Measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot.

**Footprint:** The ground area enclosed by any permanent foundation, wall, footings, and piers, including those under a deck.

**Forestry:** The use and management of woodlands for purposes of timber production and harvesting for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting operations.

**Frontage:** The yard adjoining the street of your address shall be considered a front yard, (frontage).

**Funeral Home:** A building or part thereof used for human funeral services. Such building may also contain space and facilities for preparation of the dead for interment or cremation, not including facilities for cremation; the performance of autopsies and associated surgical procedures; the storage and sale of caskets, funeral urns and related funeral supplies; and the storage of funeral vehicles.

**Gallery:** An establishment engaged in the display, sale, or loan, of art and craft work, excluding non-commercial museums and art galleries.

**Glare:** Direct view of a light source that results in discomfort to the observer and possible temporary visual impairment.

**Gross Floor Area:** The area within the perimeter of the outside walls of a building. It takes into account space used for interior features such as stairwells and elevator shafts.

**Group Home:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. §4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**Home Child Care:** In accordance with the §4412(5) of the Act, a state registered or licensed child care home serving six or fewer children on a full-time basis, and up to four additional

children on a part-time basis, which is conducted within a single family dwelling by a resident of that dwelling. A home child care as defined shall be considered a permitted use of a single family dwelling.

**Home Business:** An expanded home-based occupation conducted by a resident of a dwelling unit which is carried on within the dwelling unit and/or accessory structures and complies with Section 543 of this Bylaw.

**Home Occupation:** An occupation conducted solely within a minor portion of a dwelling unit and/or accessory structures which is conducted by resident occupants, which is clearly incidental and secondary to the use of the dwelling, which does not change the character thereof and complies with Section 542 of this Bylaw

**Hotel:** A public building or group of associated buildings which provide lodging to transients on a short term basis, may provide for food preparation and meals in a central dining area and may have a management entity operating the building(s) and may provide maid service and a central switchboard operation. Rooms in the building(s) may be under separate, common or cooperative ownership.

**Indoor Recreational Facility:** A building or structure designed, equipped and used for sports, leisure, and other recreational activities, except for such facilities which are an Accessory Use to an approved educational facility or a residential use. This includes, but may not be limited to bowling alleys, skating rinks, gymnasiums, and indoor swimming pools.

**Interested Person:** The definition of an interested person under §4465(b) of the Act includes the following:

1. 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;
2. The Town of Newfane or any adjoining municipality;
3. 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, 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;
4. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
5. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

**Kennel:** A structure or areas used for the boarding, breeding, raising, grooming, or training of two or more dogs, cats or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

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

**Landscaping:** The addition of lawn, trees, plants, grading and other natural and decorative features to land.

**Light Industry:** Research and development activities, the manufacture, fabrication, processing or warehousing of previously prepared materials, which activities are conducted wholly within an enclosed structure. Finished or semi-finished products may be stored outdoors pending shipment.

**Lodge/Inn:** A residential dwelling in design and/or previous use, now used for commercial purposes wherein the patronage is of a transitory nature and which may offer central dining facilities to the guests of the lodge/inn or the public.

**Lot:** Any parcel of land the boundaries of which are separately described in a recorded deed or filed plat.

**Lot Area:** The total area within the property lines.

**Lot Coverage:** A measure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water). This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, and any area of concrete asphalt.

**Luminaire:** Complete lighting unit including fixture, lamp, and other parts.

**Mixed Use:** A building or parcel that integrates two or more land uses.

**Mobile Home:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1).

**Mobile Home Park:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. §6201(2).

**Modular (or Prefabricated) Housing:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Motel:** Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom and bathroom and containing no cooking facilities.

**Motor Vehicle Service Station:** An area of land, including the structures thereon, used for the sale of motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating, washing, servicing and repairing motor vehicles exclusive of body work.

**Non-conforming Lot or Parcels:** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of an error by the Zoning Administrator.

**Non-conforming Structure:** A structure or part of a structure that does not conform to the present but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of an error by the Zoning Administrator.

**Non-conforming Use:** A use of land that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of an error by the Zoning Administrator.

**Nursing Home:** Building where persons are housed and furnished with meals and nursing or convalescent care.

**Office (Professional, Business):** A room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes office space which is associated with home occupations or office space that is clearly accessory to another allowed principal use. It also specifically excludes on-premise retail sale of goods and services.

**Open Space:** Land not to be developed, but to remain permanently available for purposes of recreation, including recreation facilities, and for conservation, including agriculture, for the benefit of the neighborhood community, without buildings, except as incidental accessories to agriculture, forestry, conservation and recreational purposes and maintenance.

**Outdoor Recreational Facility:** A facility for outdoor recreation, including but not limited to a tennis or basketball court, athletic field, in-ground swimming pool, or cross-country skiing center, except for such facilities which are an Accessory Use to an approved educational facility, public park, or a residential use. This definition specifically excludes golf courses and public parks and shooting ranges.

**Perennial Stream:** Watercourses as identified by US Geological Survey (USGS) topographical maps.

**Person:** An individual, corporation, partnership, association, or any other incorporated or unincorporated organization or group.

**Personal Services:** Establishments primarily engaged in providing individual services generally related to personal needs, including, but not limited to hairdressing, tailor, masseuse, shoe repair, laundry services, copy services. May include a business which provides equipment service such as repair to small machinery, sewing machines, lawn mowers, televisions, electronics and small engines.

**Principal Structure:** A building or structure within which the main or primary use of the lot on which the building is located is conducted.

**Private Club:** A corporation, organization, or association or group of individuals existing for fraternal, social, recreational, or educational purposes, for cultural enrichment or to further the purposes of agriculture, which owns, occupies, or uses certain specified premises, which is not organized or operated for profit, and the benefits of which are available primarily to members only.

**Public Facility:** Use conducted by, or a facility or structure owned or managed by, the government of the United States, the State of Vermont, or the Town of Newfane that provides a governmental function, activity, or service for public benefit.

**Public Utility Facility:** A building or structure used or intended to be used by any public utility, including, but not limited to a water treatment plant, wastewater treatment plant, transmission and distribution facilities, electric substation, telephone switching plant, storage yard for public utility equipment or vehicles, and any parking lot for parking vehicles or automobiles to serve a public utility.

**Religious Institutions:** A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, recreational or other uses not normally associated with worship. Includes, but is not limited to, churches, chapels, temples, and similar designations.

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

**Residential Care Home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(1).

**Restaurant:** An establishment that serves food and beverages to persons seated primarily within the principal building. This includes taverns, bars, cafes, tea rooms, and outdoor cafes. It also may include take-out service, but does not include service delivered directly to customers who are in motor vehicles.

**Retail:** Premises where goods, services, or merchandise are offered for retail sale or rent 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 the retail sale of gasoline or motor vehicles and other separately regulated retail uses defined herein.

**Right-of-Way:** The legal right to pass over property owned by another property. The path or thoroughfare on which such passage is made.

**Seasonal Camp:** A building not exceeding 720 square feet in building area which has no permanent foundation and is not served by public utilities. A seasonal camp shall not be used as a primary or secondary residence, but rather as a temporary shelter for occasional use in connection with an outdoor recreational activity such as hunting or fishing.

**Separate and Non-Affiliated Ownership:** A situation wherein the owners of property do not also hold contiguous property in affiliated ownership.

**Setback:** The space on a lot required to be left open and unoccupied by buildings or structures, either by the front, side or rear yard requirements of this Bylaw, or by delineation on a recorded subdivision map. The front setback shall be the distance measured perpendicularly from the center line of the legal access. The rear and side setbacks shall be the distance measured perpendicularly from the property lines.

**Small Wind Energy System:** A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity appropriate to the on-site electric usage of the end-user and may be interconnected with the electric utility system.

**Small Wind Energy System Height:** The tower height plus the blade length.

**Structure:** An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, billboard, sign, wall, or fence. Structures also include, without limitation, decks, swimming pools, tennis courts, towers, and wind energy facilities.



**Subdivision:** The division of a parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term “subdivision” includes the re-subdivision involving the adjustment of boundaries between two or more existing parcels. Any transfer, conveyance, or sale, of land held in one ownership, but already divided into lots by an existing public or private right-of-way shall not be considered a subdivision for the purposes of these regulations.

**Temporary Use:** A building or structure, permitted in accordance with Section 490, which is constructed or located on a site and remains on said site for a period of not more than one (1) year.

**Tower Height:** The height above grade of the fixed portion of the tower, excluding the wind turbine and blades.

**Turbine:** The parts of a wind system including the blades, generator and tail.

**Unit:** This term is the same as “dwelling unit”.

**Use:** The purpose for which land, premises, or a building thereon, is designed, arranged, intended, and for which it is (or may be) occupied or maintained.

**Wetland:** Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonably saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, vernal pools and ponds, but excluding such areas as grow food or crops in connection with farming activities. 24 V.S.A. §4303(32)

**Zoning Administrator:** Local official charged with administering bylaw under 24 VSA §4448.

**Zoning Permit:** Authorization to commence development to be issued by the Zoning Administrator in conformance with these Bylaws.