

ZONING BYLAWS
FOR THE
TOWN OF HYDE PARK,
LAMOILLE COUNTY, VERMONT
EFFECTIVE 4/2/09

HISTORY OF THE ZONING BYLAWS FOR THE TOWN OF HYDE PARK

AMENDMENT DELETING REVIEW OF WATER SUPPLY WELLS DUE TO STATE DELEGATION, AMENDMENT ADDING ADDITIONAL EXEMPTIONS TO LAND DEVELOPMENT AND RELOCATING THEM FROM SECTION V TO SECTION I, AMENDMENT TO ALLOW DRIVEWAYS OF UP TO A 10% SLOPE WITH CONDITIONS, AMENDMENT TO ADD DEFINITION OF DRIVEWAY, FARMING, FARM STRUCTURE, AND PRIVATE ROAD.

3/12/09

GREEN RIVER RESERVOIR AMENDMENT

November 2, 2005

STATUTORY AMENDMENTS

October 5, 2005

COMPREHENSIVE REDRAFTING AND ADOPTION

June 2, 2004

INTERIM- AMENDMENTS TO ADD NORTH HYDE PARK INDUSTRIAL DISTRICT

August 28, 2002

AMENDMENTS TO FLOOD HAZARD AREA BYLAWS

November 1, 1995

INTERIM- AMENDMENTS TO FLOOD HAZARD DISTRICT

June 6, 1990

ADOPTED

Zoning Bylaws for the Town of Hyde Park (2008)

September 13, 1988

HISTORY OF THE TELECOMMUNICATIONS BYLAWS

AMENDED AND INCORPORATED INTO GENERAL ZONING BYLAWS

June 2, 2004

ADOPTED

November 7, 2001

INTERIM- TELECOMMUNICATIONS FACILITIES BYLAWS

January 19, 1999

HISTORY OF THE FLOOD HAZARD AREA BYLAWS

AMENDED AND INCORPORATED INTO GENERAL ZONING BYLAWS

September 13, 1988

AMENDED

March 2, 1982

ADOPTED

March 6, 1979

PREPARED BY THE:

Town of Hyde Park Planning Commission

WITH TECHNICAL ASSISTANCE PROVIDED BY:

Lamoille County Planning Commission

DEVELOPMENT OF THIS REVISED BYLAW WAS FUNDED IN PART BY A

Municipal Planning Grant

AWARDED BY THE:

Agency of Commerce and Community Development

Zoning Bylaws for the Town of Hyde Park (2008)
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Section I. General Provisions

A. Enactment

These zoning bylaws, set forth in this text and map, are hereby established as authorized in §4402(1) and have been enacted in accordance with the provisions of the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117 of the Vermont Statutes Annotated (V.S.A.)) hereinafter referred to as “the Act.”

B. Applicability

All land development within the Town of Hyde Park is subject to regulation under these bylaws except land development within the Village of Hyde Park, which is not subject to regulation under these bylaws.

Development includes, but is not limited to:

1. The construction, reconstruction, conversion, alteration, relocation, or enlargement of any building or other structure including the replacement of a mobile home.
2. Any earth moving requiring heavy machinery, the construction of any pond or lake, or of any mining, excavation, or landfill.
3. Any change in use of any structure or land or part thereof.

Development does not include:

1. Normal maintenance and repair of an existing structure that does not result in any change to the footprint or height dimensions of the structure, an increase in wastewater generation, or a change in use.
2. The internal alteration of existing structures that do not result in a change in the use or the character of the property.
3. The external alteration or improvement of existing structures, which does not result in a change in the use, or character of the property.
4. Structures that do not exceed 300 square feet in floor area providing such structures meet setback requirements and are:
 - a. Unattached sheds, or
 - b. Non-residential additions to non-residential structures, or
 - c. Additions to residential structures that are not to be used for living purposes, such as porches, decks, wood sheds, bulkheads, etc., and which do not require plumbing of any kind.

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- d. And are outside of the Flood Hazard Area Overlay District.
5. Uses of land that do not include a structure or the storage of materials. The grading and landscaping of land when not associated with other land development provided existing drainage patterns are not substantially altered on adjacent properties.
6. Telecommunication equipment including transmitters, receivers, and repeaters provided such equipment does not interfere with public safety telecommunications [considered to be *de minimis* for §4412(9)]. Equipment that interferes with public safety telecommunications is prohibited.
7. The demolition of structures.
8. The use of a minor portion of a dwelling for an occupation that meets the limitations established under Section III(G) of this bylaw.
9. Farming including:
 - a. Accepted agricultural and best management practices (AAPs, BMPs) as defined by the commissioner of Agriculture, Food, and Markets [§4413(d)]
 - b. The construction or alteration of farm structures however such construction or alteration shall meet setbacks required by these bylaws, unless specifically waived by the Commissioner. Written notification, including a sketch plan showing the proposed structure and associated setback distances from road rights-of-way, property lines, and surface waters, and any waiver from the state, shall be made to the Zoning Administrator prior to construction, as required under the AAPs. [§4413(d)]
10. Forestry including:
 - a. Accepted management practices for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation [§4413(d)].
 - b. The construction of logging roads and bridges provided the roads and bridges are used exclusively for agriculture or forestry.
11. Power generation and transmission facilities that are regulated under 30 V.S.A. §248 by the Vermont Public Service Board.
12. Hunting, fishing, and trapping as specified under 24 V.S.A. §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these bylaws are defined as outdoor recreation facilities.
13. Garage sales, yard sales, auctions, or similar activities that do not exceed four (4)

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consecutive days, nor more than thirty (30) total days in any calendar year.

Unless specifically exempted herein, no land development shall commence within the area affected by these regulations without a permit thereof issued by the Zoning Administrator [§4449(a)(1)].

This bylaw shall not repeal, abrogate, or impair any other land use controls including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of this bylaw shall be minimum requirements and shall therefore take precedence over any concurrent and less restrictive controls [§4413(c)].

The issuance of a permit under these regulations shall not relieve the applicant from the obligation of obtaining any necessary approvals by federal or state law.

C. Intent

It is the intent of these bylaws:

1. To implement the Town of Hyde Park Municipal Development Plan so as to achieve orderly community growth, development, and fair property taxation;
2. To effect the purpose of 10 V.S.A. Chapter 32 (flood hazard regulations), and in accordance with §§4411(b)(3)(G), 4424 of the Act as amended, there are hereby established Flood Hazard Area Zoning Bylaws for the Town of Hyde Park, Lamoille County, Vermont. The purpose of these provisions is to:
 - a. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that results from flooding;
 - b. Ensure that the design and construction of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage;
 - c. Manage all flood hazard areas designated pursuant to 10 V.S.A. §753;
 - d. Make wise use of agricultural land in flood prone areas; and
 - e. Make the municipality eligible for Federal Flood Insurance.
3. To further the purposes of the Act [§4302].

D. Effective Date

These bylaws shall be effective twenty-one (21) days after adoption (by majority vote of the Selectboard) and shall remain in effect until repealed or amended in accordance with the Act

[§4442(c)(1)].

A vote on a bylaw or amendment shall not take effect if five percent of the voters of the Town of Hyde Park petition for a meeting of the municipality to consider the bylaw or amendment, and the petition is filed within twenty (20) days of the vote. In that case a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw or amendment by Australian ballot [§4442 (d)].

E. Severability

The provisions of these regulations are severable. If a court of competent jurisdiction holds any provision or the application thereof to any person or circumstance unconstitutional or invalid, the remainder of these bylaws shall not be affected.

E. Computation of Time

Where an event is required or permitted to occur by these bylaws before, on, or after a specified period of time measured from another event, the first day shall not be counted and the final day shall be counted in calculating the period [§4303a].

G. Development During Adoption or Amendment Process

Once notice for a public hearing on the adoption or amendment to these bylaws is issued by the Selectboard, the Zoning Administrator shall review any new application filed after the date of the notice under the proposed bylaws or amendment and the existing zoning bylaws. [§4449(d)]

If the proposed bylaws or amendment has not been adopted within 150 days of the notice, or if the proposed bylaws or amendment is rejected, then new applications shall be reviewed under the existing bylaws. [§4449(d)]

An application that has been denied under a proposed bylaw or amendment that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing zoning bylaws, upon request of the applicant. [§4449(d)]

Section II. Zoning Map, Zoning Districts, & District Regulations

A. Establishment of Zoning Districts

The Town of Hyde Park is hereby divided into the following zoning districts and whose locations are identified on the Town of Hyde Park Official Zoning Map:

1. Rural Residential 2 (RR2)
2. Rural Residential 5 (RR5)
3. North Hyde Park/ Garfield (NHP/GAR)
4. North Hyde Park Industrial & Commercial (NHPIC)
5. Shoreline (SHR)
6. Conservation – 10 ac (CON10)
7. Conservation – 27 ac (CON27)
8. Wellhead Protection Areas (WHPA)

In addition to the eight zoning districts, two overlay districts are hereby established encompassing the Town of Hyde Park’s flood hazard areas (FHA) and the Green River Reservoir Viewshed Overlay District (GRR).

B. Establishment of the Official Zoning Map

The Official Zoning Map shall consist of the Town of Hyde Park Zoning Map; the Town of Hyde Park Flood Insurance Rate Maps hereafter referred to as the FIRM maps (published by the Federal Emergency Management Agency, hereafter FEMA); and the Town of Hyde Park Flood Boundary and Floodway Maps, hereafter FBFM (published by FEMA).

The Official Zoning Map is hereby adopted by reference and declared to be part of this bylaw. Regardless of the existence of copies which may be made or published from time to time, the Official Zoning Map located in the Town of Hyde Park Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town of Hyde Park. An unofficial reproduction of the Hyde Park Zoning Map is included as an attachment to these bylaws (Attachment A).

The signature of the Selectboard, attested by the Town Clerk, shall identify the Official Zoning Map. No changes of any nature shall be made on the Official Zoning Map except in conformance with the formal amendment procedures and requirements set forth in the Act [§§4441,

4442].

The Flood Hazard Area district boundaries contained within the Official Zoning Map are unofficial reproductions of the FEMA FIRM and FBFM maps. The Flood Hazard Area provisions of this zoning bylaw shall apply to areas identified as areas of special flood hazard on the FEMA FIRM maps, dated November 4, 1981, or more recent revisions, and as a regulatory floodway on the FEMA FBFM maps, dated November 4, 1981, or more recent revisions, and further delineated in the Flood Insurance Study, dated June 15, 1981.

C. Interpretation of Zoning District Boundaries

When interpreting the boundaries of districts on the Official Zoning Map, the Zoning Administrator shall consult the appropriate district's description and follow the rules below.

1. Boundaries indicated, as approximately following roads, transportation, or utility rights of way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
2. Boundaries indicated, as approximately following lot lines shall be construed to follow such lot lines.
3. Boundaries indicated as following a watercourse shall be construed as following a watercourse at the deepest level.
4. Boundaries indicated as parallel to, or extensions of a feature in 1, 2, and 3 above, shall be so construed.
5. Boundaries of the designated flood hazard area shall be determined by scaling distances on the FIRM or FBFM maps, as appropriate.
 - a. Where available, (i.e. Zones A, A1-A30, AE, and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps (of most recent date) shall be used to administer the provisions of these regulations.
 - b. In areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e. Zone A) base flood elevation and floodway information available from State or federal agencies or other sources shall be obtained and reasonably utilized to administer the provisions of these regulations.

When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the DRB shall interpret the district boundary. Disputes over the exact location of Flood Hazard Area boundaries shall be resolved by the DRB based upon survey and/or other evidence including input

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from the State Department of Environmental Conservation.

D. Rural Residential 2

<p>Description: The district includes all land in the southwest corner of the Town of Hyde Park. It is bounded to the north by the North Hyde Park district, a line 500 feet to the north side of North Hyde Park Road, Cooper Hill Road, and McKinstry Hill Road except where the WHPA district is present. The district’s eastern boundary is 500 feet east of Center Road.</p>				
<p>Objective: The Rural Residential Two district includes that portion of the town adjacent to the Village of Hyde Park and close to public services. These areas are best suited to medium density, rural residential development, small businesses, and home industries but also include traditional uses of the land including farming and forestry.</p>				
<p>Permitted Uses:</p> <ol style="list-style-type: none"> 1) Agriculture and forestry 2) Single family dwelling 3) Two family dwelling 4) Seasonal dwelling 5) Home businesses and industries 		<p>Conditional Uses:</p> <ol style="list-style-type: none"> 1) Earth extraction 2) Multifamily dwelling 3) Mobile home park 4) Commercial 5) Industrial 6) Business & personal service and office 7) Public and civic facilities 8) Outdoor recreation 9) All other land uses not classified above. 		
<p>Area and Dimensional Requirements:</p>				
Minimum lot size	Clustering density	Min. frontage	Minimum setback	
			Road	Other property lines
2 acre	1 du / 2 acre	150 feet	50 feet	25 feet
<p>Conditional Use Standards: In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the neighborhood. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation.</p>				

E. Rural Residential 5

<p>Description: The Rural Residential Five is located in two areas of town. In the northwest corner of town, the RR5 District includes land north of the North Hyde Park District and Rural Residential Two district. It is bounded on the east by the WHPA and property lines. The largest area of RR-5 is located on the eastern side of town and is bounded on the west by the RR-2 district parallel to Center Road and McKinstry Hill Road. The district remains 500 feet south of McKinstry Hill Road and Levesque Drive until it reaches Centerville Brook. The district then follows Centerville Brook south until a point 500 feet north of Cleveland Corners Road. The district line then runs east until the Garfield District and north along the centerline of the Green River Dam Road until it enters the Green River Reservoir State Park. At that point the RR-5 district follows the property line of the State Park until the Eden town line.</p>				
<p>Objective: RR-5 includes that portion of the town that is best suited to lower density, rural residential development, and working landscapes. Lower residential densities are intended to decrease the possibility of residential development conflicting with traditional working landscapes.</p>				
<p>Permitted Uses:</p> <ol style="list-style-type: none"> 1) Agriculture and forestry 2) Single family dwelling 3) Two family dwelling 4) Seasonal dwelling 5) Home businesses and industries 		<p>Conditional Uses:</p> <ol style="list-style-type: none"> 1) Earth extraction 2) Multifamily dwelling 3) Mobile home park 4) Commercial 5) Industrial 6) Business and personal services and office 7) Public and civic facilities 8) Outdoor recreation 9) All other land uses not classified above 		
<p>Area and Dimensional Requirements:</p>				
Minimum lot size	Clustering density	Min. frontage	Minimum setback	
			Road	Other property lines
5 acres	1 du / 5 acres	200 feet	50 feet	25 feet

Conditional Use Standards: In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the neighborhood. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation.

E. North Hyde Park/ Garfield

<p>Description: The districts include the villages of North Hyde Park and Garfield. The property lines, as shown approximately on the Zoning Map, bound North Hyde Park. The village of Garfield includes land within 500 feet of the Garfield Road, Garfield Crossing, and Cleveland Corners loop.</p>				
<p>Objective: The districts are intended to permit small retail, commercial, and industrial enterprises, as appropriate for village settings, as well as higher density residential development.</p>				
<p>Permitted Uses:</p> <ol style="list-style-type: none"> 1) Single family dwelling 2) Two family dwelling 3) Seasonal dwelling 4) Home businesses and industries 			<p>Conditional Uses:</p> <ol style="list-style-type: none"> 1) Multifamily dwelling 2) Mobile home park 3) Commercial 4) Industrial 5) Business & personal service and office 6) Public and civic facilities 7) All other land uses not classified above 	
<p>Area and Dimensional Requirements:</p>				
Minimum lot size	Clustering density	Min. frontage	Minimum setback	
			Road	Other property lines
1 acre with off site water/ 2 acres with on site water	1 du / ½ acre	100 feet	25 feet	15 feet
<p>Conditional Use Standards: In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the neighborhood. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation.</p>				

G. North Hyde Park Industrial & Commercial

<p>Description: The North Hyde Park Industrial and Commercial district is bound on the west by Route 100, the north by the old town road, and the east and south by the Gihon River.</p>				
<p>Objective: The purpose of the district is to encourage industrial and commercial development near the village of North Hyde Park to take advantage of existing services including three phase power and water.</p>				
<p>Permitted Uses:</p> <ol style="list-style-type: none"> 1) Agriculture and forestry 2) Industrial (that does not use, store, manufacture, or have as a by product, hazardous materials or hazardous waste) 3) Commercial (that does not use, store, sell, or lease products that have or contain hazardous materials) 			<p>Conditional Uses:</p> <ol style="list-style-type: none"> 1) Industrial (that does use, store, manufacture, or have as a by product, hazardous materials or hazardous waste) 2) Commercial (that use, store sell, or lease products that contain hazardous materials) 3) Single family 4) Home Business and Industry 5) Multifamily 	
<p>Area and Dimensional Requirements:</p>				
Minimum lot size	Clustering density	Min frontage	Minimum setback	
			Road	Other property lines
1 acre with off site water/ 2 acres with on site water	1 du / 1 acre	200 feet for lots with direct access to Route 100 or 75 feet for lots accessing a secondary or private road	50 feet from Rte 100, 25 feet from right of way of secondary or private road	15 feet
<p>Conditional Use Standards: Expansion of existing residential uses cannot interfere with the overall purpose of this district. With respect to commercial and industrial development, and in addition to any other requirements, applicants must demonstrate to the satisfaction of the DRB that the wellhead protection area is not at risk of contamination.</p>				

H. Shoreland

Description: The Shoreland District includes the lands within 500 feet of the mean water level of Green River Reservoir (1220' MSL) and Zack Woods Pond (1779' MSL).					
Objective: The district is intended to protect scenic and natural resources as well as water quality. Very-low density seasonal camps may be appropriate provided they are constructed with full wastewater treatment facilities.					
Permitted Uses: 1) Agriculture and forestry 2) Primitive camp			Conditional Uses: 1) Single family dwelling 2) Home business and industry 3) Outdoor recreation 4) Seasonal commercial 5) Seasonal dwelling		
Area and Dimensional Requirements:					
Minimum lot size	Maximum density	Min. frontage	Minimum setback		
			Road	Lake/Pond	Other property lines
10 Acres	1 du / 10 acres	200 feet- road 200 feet- lake	50 feet	100 feet	25 feet
Conditional Use Standards: Any conditional use must demonstrate to the satisfaction of the DRB that emergency services are accessible during occupation or operation. No conditional use shall threaten water quality or degrade the scenic and natural values of the district.					

I. Conservation-10 ac

Description: The conservation district includes lands east and north of the RR-5 district and northeast of the RR-2 and WHPA districts.				
Objective: The Conservation district includes lands with steep slopes, shallow soils, limited road access, and are generally far from public services. This area is best suited for forest management, agriculture, wildlife management, recreation, and seasonal or very low-density residential housing.				
Permitted Uses:			Conditional Uses:	
<ul style="list-style-type: none"> 1) Agriculture and forestry 2) Single family dwelling 3) Seasonal dwellings 4) Home businesses and industries 			<ul style="list-style-type: none"> 1) Earth extraction operations 2) Outdoor recreation 3) Seasonal commercial 4) Forest products & processing 	
Area and Dimensional Requirements:				
Minimum lot size	Maximum density	Min. frontage	Minimum setback	
			Road	Other property lines
10 Acres	1 du / 10 acres	200 feet	50 feet	25 feet
Conditional Use Standards: Any conditional use must demonstrate to the satisfaction of the DRB that emergency services are accessible during occupation or operation. No conditional use shall threaten water quality or degrade the scenic and natural values of the district.				

J. Conservation-27 ac

Description: The conservation district includes all lands currently part of the Green River Reservoir State Park or owned by Morrisville Water and Light.				
Objective: The Conservation district includes lands with steep slopes, shallow soils, limited road access, and are generally far from public services. These lands are generally within view of boaters on the reservoir and have very high scenic values. This area is best suited for forest management, wildlife management, recreation, and very low-density seasonal housing.				
Permitted Uses:			Conditional Uses:	
<ol style="list-style-type: none"> 1) Agriculture and forestry 2) Seasonal dwellings 			<ol style="list-style-type: none"> 1) Earth extraction operations 2) Outdoor recreation 3) Seasonal commercial 4) Forest products & processing 	
Area and Dimensional Requirements:				
Minimum lot size	Maximum density	Min. frontage	Minimum setback	
			Road	Other property lines
27 Acres	1 du / 27 acres	200 feet	50 feet	25 feet
Conditional Use Standards: Any conditional use must demonstrate to the satisfaction of the DRB that emergency services are accessible during occupation or operation. No conditional use shall threaten water quality or degrade the scenic and natural values of the district.				

K. Wellhead Protection Areas

<p>Description: The Wellhead Protection Areas District includes those portions of the Town that are immediately adjacent to existing sources for the public water supply systems serving the Village of Hyde Park and the North Hyde Park Fire District. This district includes the aquifer protection area for the source for the Village of Hyde Park and a 200-foot radius around the well used by the North Hyde Park Fire District</p>				
<p>Objective: In order to protect the Villages’ public water supplies, this district will restrict land uses that might impact surface or ground water quality.</p>				
<p>Permitted Uses:</p> <ol style="list-style-type: none"> 1) Agriculture and forestry 2) Outdoor recreation 3) Open Space 			<p>Conditional Uses:</p> <ol style="list-style-type: none"> 1) Home businesses and industries 2) Single family dwelling 3) Seasonal dwelling 	
<p>Area and Dimensional Requirements:</p>				
Minimum lot size	Clustering density	Min. frontage	Minimum setback	
			Road	Other property lines
10 Acres	1 du / 10 acres	150 feet	40 feet	25 feet
<p>Conditional Use Standards: Applicants shall provide written documentation showing how their proposal avoids or mitigates any potential risks to surface or ground water. Applicants shall demonstrate that they have designed and sited their project to minimize impacts upon wetlands, riparian habitats, aquifer recharge areas, permeable soils, steep slopes, and other important features known to impact water quality. Applicants must address stormwater runoff from impervious surfaces and disposal of solid waste.</p>				

Specifically prohibited uses within the WHPAs: Solid or hazardous waste disposal sites; underground storage tanks (except for storing drinking water); storage, manufacture, or processing of commercial fertilizers or pesticides; storage of road salt; any facility which uses, distributes, or stores, toxic chemicals, solvents, or fuels (such as gas stations or dry cleaners); injection wells; motor vehicle junk yards; electric utility substations, any facility or use in which the number of on-site sewage disposal systems exceeds a density of one such system per acre; any facility or use which requires an on-site sewage disposal system with a capacity of more than 900 gallons per day; commercial and industrial operations which involve the on-site disposal of process wastes from operations; car washes; any development which involves covering 10% or more of the area of a single lot with impervious surface.

L. Flood Hazard Area Overlay

<p>Description: The Flood Hazard Areas overlay district shall consist of all lands in the Town identified as areas of special flood hazard on the Federal Insurance Administration (FIA) FIRM maps, dated November 4, 1981, or more recent revisions, and as a regulatory floodway on the FIA Flood Boundary and Flooding Maps, dated November 4, 1981, or more recent revisions, and further delineated in the Flood Insurance Study.</p>	
<p>Objective: It is the purpose of this district to minimize and prevent loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flood by:</p> <ul style="list-style-type: none"> a. Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities; b. Requiring that the design and construction of development in the flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage; c. Prohibiting filling of the flood hazard area unless compensating the flood carrying capacity elsewhere; and d. Promoting wise use of the flood hazard areas as agricultural lands and open space. 	
<p>Permitted Uses:</p> <ul style="list-style-type: none"> 1) Agriculture and forestry 2) Outdoor recreation without structures 3) Open space 	<p>Conditional Uses:</p> <ul style="list-style-type: none"> 1) See below
<p>Area and Dimensional Requirements: As set forth for the underlying district.</p>	
<p>Conditional Use Standards: See below.</p>	

This district is an overlay zone and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district differ from those of the Flood Hazard Area Overlay District, the more restrictive shall govern.

The mandatory provisions of state and federal law for continued Town participation in the National Flood Insurance Program are hereby adopted by reference and shall be applied in the review of any land alterations or construction in this district.

Permitted Uses. The permitted uses above shall be approved within the floodway fringe provided that they do not require the erection or substantial improvement of structures, storage of

materials and equipment, or importing of fill.

Conditional Use Review Standards:

1. Floodway Areas
 - a. Development within the floodway is prohibited.
 - b. Landfilling, parking recreational vehicles, junkyards, and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are strictly prohibited within the floodway.

2. Floodway Fringe Areas
 - a. Proposed new construction. No new construction is permitted within the floodway fringe unless elevated above the floodway fringe in the manner specified below. Once a structure has been elevated out of the floodway fringe, the regulations of the underlying district shall apply provided provisions below are met.
 - i. Portions of the floodway fringe may be filled in order for construction to be permitted provided the landfilling occurs in a compensatory fill manner (for each yard of material added to the floodway fringe the same volume of material must be removed from another portion of the floodway fringe in Hyde Park). Where possible the removed fill should be on site or nearby and must have the impact of replacing the flood carrying capacity that is lost by the filled portions.
 - ii. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
 - iii. All fill must be properly compacted, graded, and, where appropriate, re-vegetated.
 - iv. Landfilling is not permitted in wetlands or the floodway (see above).
 - v. All development shall be designed to minimize flood damage and to provide adequate drainage to reduce exposure to flood hazards.
 - vi. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
 - vii. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - b. Existing structures. Existing structures shall be modified and

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- i. Improvements to existing structures shall be constructed with materials resistant to flood damage with electrical, heating, ventilation, plumbing, 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.
- ii. Existing buildings to be substantially improved for residential purposes and replacement homes shall be modified or elevated such that the top of the fill (the pad) under the entire home is above the base flood elevation. Fill for replacement structures and fill for floodproofing of existing structures are not required to meet the compensatory fill requirements above. Fill may also be added for 10 feet around the elevated structure (provided it does not fill floodway or wetlands) without compensation as well.
- iii. Existing manufactured homes, additions to manufactured homes, and accessory buildings shall be tied down by provision of;
 - over the top ties at each corner, with two additional ties per side at intermediate locations; and
 - frame ties at each corner, with five additional ties per side at intermediate locations. Manufactured homes less than 50 feet long may use, in addition to all the corner ties above, one over the top tie and four frame ties per side. All components of the anchoring system shall be capable of carrying a force of 4800 pounds. An evacuation plan for any existing manufactured home parks and subdivisions indicating alternate vehicular access and escape routes shall be filed with the State Civil Defense Office. (See §1910.3(b)(8) of the Federal Register and the FEMA manual, “Manufactured Home Installation in Flood Hazard Areas. September 1985” for anchoring standards.)

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- iv. Dry-proofing. Existing buildings to be substantially improved for non-residential purposes shall either meet the requirements of subsection (ii) or be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be dry-proofed shall not be issued until a registered engineer or architect has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- v. Wet-proofing. As an alternative to land filling or dry-proofing an existing structure for non-residential purposes, all substantial improvements to buildings with fully enclosed areas subject to flooding may 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 be certified by a registered engineer or architect and include the following minimum criteria:
 - A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - The bottom of all openings shall be no higher than 1 foot above grade.
 - Openings may be equipped with screens, louvers, valves, or other coverings provided that they permit the automatic entry and exit of floodwaters.
- c. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- d. Junkyards are strictly prohibited from the floodway fringe. Storage of floatable, hazardous, or toxic materials is permitted only when the material or tank is anchored to a pad that has been filled and graded to at least one foot above the base flood elevation.

M. Green River Reservoir Viewshed Overlay District

Description: The Green River Reservoir Viewshed Protection Overlay District (GRR) shall consist of the lands in the town identified on the overlay district map as being within the viewshed of the reservoir.	
Objective: The purpose of this district is to protect the unique visual character of the areas surrounding the Green River Reservoir. All development shall be designed and sited in a manner that maintains the visual character of the viewshed district from points on the reservoir or its shoreline, particularly during the period between May 15 and October 31.	
Permitted Uses: See below.	Conditional Uses: See below.
Area and Dimensional Requirements: As set forth for the underlying district.	
Conditional Use Standards: See below.	

General application requirements and procedures.

Project classification. All projects within the GRR district shall be reviewed as either a permitted or conditional use based on the following criteria:

1. Classification criteria. The Zoning Administrator shall classify a development as permitted upon finding that the project meets all of the following conditions:
 - a. The primary use of the property is not a conditional use for the district in which it is located.
 - b. Based upon the official GRR overlay district map, the structure is located in an area of “minimal visibility” or “not visible” from the reservoir.
2. All projects not classified as permitted are conditional uses and require DRB approval.
3. Project classification notice. Permitted uses shall be reviewed by the Zoning Administrator under Section V(A) and notice of the decision sent to all adjoining property owners. Where an application requires conditional use review, the adjoining property owners shall be notified through the conditional use procedures. Any determination by the Zoning Administrator can be appealed to the DRB for reconsideration under Section VI(C) of this bylaw.
 - a. Upon appeal the DRB may use any additional evidence including site visits to determine if the project is located in an area of “minimal

Zoning Bylaws for the Town of Hyde Park (2008) visibility”. The appellant has the burden of proof regarding whether the project is located in an area of “minimal visibility” or “not visible”.

Application requirements. In addition to other application requirements for permitted or conditional use, as applicable, applicants shall provide written and/or graphic documentation showing how their proposal meets the standards for review below.

Standards for review.

The standards for review are being treated as performance standards as established in §4414(5). Performance standards, by their nature, do not establish specific criteria (like a 50 foot setback) but rather an acceptable level of performance that must be attained. The provisions below are divided into standards and guidelines.

The standards are requirements that must be met by all development (conditional and permitted uses) within the overlay district.

The guidelines are not regulatory and are intended to be instructive in nature. They suggest a variety of means by which the applicant might comply with the standards. The options for compliance are not limited to the guidelines listed. The applicant can use the guidelines as an aid in the design process.

Overall screening of structures.

There are two standards for screening a structure on the landscape: maintaining a forested backdrop and screening by trees and other natural means in the foreground to interrupt the facade. Property owners and developers can establish and maintain views while reducing the buildings overall visibility. A third standard is required for the construction of roads, driveways and utility corridors.

Standard 1. All structures must be located such that the building’s profile will not visually exceed the height of land or tree line serving as the building’s backdrop. When referring to ‘backdrop’, the description is relative to points on the reservoir or its shoreline.

Guideline 1.1 Clearing and forest management should protect the unbroken forest backdrop. Generally, forest management will be limited to practices that maintain a forested appearance adjacent to the buildings.

Standard 2. All structures must be screened by trees or by other natural features sufficient to provide visual breaks to any building facade when viewed from points on the reservoir or its shoreline between May 15 and October 31.

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Guideline 2.1 Clearing and forest management in the foreground should be limited to maintain a forested appearance and to interrupt the building's appearance on the landscape. View openings are appropriate and allowed between trees and beneath tree canopies. The creation and maintenance of views should involve the selective cutting of small trees and the branches of large trees rather than removal of large trees. In referring to 'foreground' above, the description is relative to points on the reservoir or its shoreline.

Guideline 2.2 Hazard trees, blow downs, dead or damaged trees may be removed. Thinning of trees or pruning of branches is also permitted provided it does not cause the structure to be in violation of the screening requirements.

Guideline 2.3 When building on slopes, the preference is to set buildings into topography using partial earth sheltering. Try to take advantage of the topography by building multi-level structures with entrances on more than one level (i.e. walk out basement, garages under buildings).

Guideline 2.4 Buildings and structures proposed near high points, outcroppings or prominent knolls should be setback to provide sufficient area to allow for additional screening.

Standard 3. Roads, driveways, and utility corridors shall be sited to minimize their visibility on the landscape.

Guideline 3.1 Roads and driveways, including converted logging roads, and utility corridors should use or share existing roads where feasible, and follow existing contours and linear features (e.g. tree lines, stone walls, etc.).

Guideline 3.2 Applicants should maintain trees on both sides of any proposed road to minimize the visibility on the landscape.

Design features to harmonize with landscape

Property owners and developers are required to meet design standards for all buildings and structures to help blend the structure into the landscape. These include some basic standards regarding colors, reflective materials, and exterior lighting.

Standard 4. Colors of exterior materials (e.g. roofing, siding, window sashes, and trim) shall be selected to blend in with the surrounding landscape during the summer months.

Guideline 4.1 Muted colors including those with a light reflectivity value (LRV) of 35 or less used in combinations that have muted contrast are suggested.

Standard 5. On the reservoir side of the building only, structures shall minimize reflective surfaces.

Guideline 5.1 Developers and property owners should use non-reflective roofing materials.

Guideline 5.2 Developers and property owners are encouraged to use design features to reduce reflectivity of features such as windows. Oversized picture windows and large uninterrupted expanses of glass should be avoided. The use of dividers or other architectural design elements including adequate overhangs are encouraged to reduce the reflectivity of glass surfaces.

Standard 6. Exterior lighting shall be designed such that its visibility on the reservoir side is minimized.

Guideline 6.1 The use of non-reflective surfaces and shielded outdoor lighting fixtures is strongly encouraged to limit the visibility of the development from off-site. Low post lighting and low-level indirect lighting are recommended; spot or floodlights should be avoided.

Guideline 6.2 Creative lot layout may serve to limit off-site glare, visibility and night sky pollution by laying out buildings and structures that shield light fixtures from viewing areas including the Green River Reservoir.

Forest Management Guidelines

By state law forest management is exempt from zoning bylaws unless the forestry activity is designed or serves as site preparation for subsequent development. Maintenance of trees around a dwelling also are generally not considered development and therefore do not require a permit. Although neither of these acts requires a zoning permit, the results of such actions may limit subsequent development potential or create a zoning violation.

Section III. Specific Uses and Structure

A. Accessory Apartments

A dwelling unit may be allowed as an accessory to a single family home, subject to the following provisions, which also are intended to meet requirements for accessory apartments as set forth in the Act [§4412(1)(E)].

The accessory dwelling unit shall meet the following requirements:

1. Accessory apartments are a permitted use for any single family unit provided no new structures or additions are required. The construction of any addition or new structure for an accessory apartment must meet relevant requirements for development under these bylaws (e.g. prohibited in FHA; conditional in WHPA; or permitted in RR-2).
2. The accessory unit shall fulfill the requirements of a dwelling unit – One room, or rooms connected together, constituting a separate, independent housekeeping establishment for the owner occupancy, rental, or lease, and physically containing independent cooking, bathroom/toilet facilities, and sleeping facilities. Mobile homes cannot be used as accessory apartments (mobile homes are treated as primary structures).
3. Floor space not to exceed thirty (30) percent of the floor space of the existing living area of the single-family residence.
4. One of the residences is occupied by the owner;
5. The accessory apartment is occupied by no more than two persons; and
6. As accessory apartments add a bedroom to the structure, the applicant must demonstrate compliance with wastewater regulations.

A zoning permit issued for an accessory dwelling shall clearly state that the dwelling(s) is permitted only as an accessory to the principal residential use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principle dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

B. Day Care Facilities

No permit shall be issued for the creation or operation of a child care facility without obtaining all licenses and registrations required under state law. Operation of a facility in violation of

license or registration shall constitute a violation of these bylaws.

1. Definitions.

- a. Child care facility: Any place, operated as a business or service on a regular or continuous basis whether for compensation or not, which provides early care and/or education.
- b. Child care: The developmentally appropriate care, protection and supervision which is designed to ensure wholesome growth and educational experience for children outside of their homes for periods of less than 24 hours a day in a day care facility.
- c. Child: Person who has not yet reached the age of sixteen years.
- d. Registered family child care homes. A child care facility, registered with the state, which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. [33 V.S.A. §4902(3)]
- e. Licensed family child care home: An early childhood program licensed for up to 12 children in the residence of the licensee where the licensee is one of the primary caregivers.
- f. Licensed child care facility. A child care facility licensed to provide an early childhood program for children up to a number established by the Child Care Division.

2. Treatment under these regulations.

- a. Unregistered or unlicensed facilities. Child care facilities that are exempt from state licensure and registration through 33 V.S.A. §3502(b) are not regulated under these provisions but may be regulated in other sections of this bylaw. Such exemptions include:
 - i. Persons providing care for children of not more than two families;
 - ii. Hospitals or establishments holding a license issued by the Department of Health, or persons operating a program primarily for recreation or therapeutic purposes;
 - iii. Day care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities;
 - iv. Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulations by the Department of Education. [33 V.S.A. §3502(b)(1-4)]
- b. A state registered or licensed family child care home operated within a single family dwelling shall be considered by right to constitute a permitted single family residential use of the property. [§4412(5)]

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- i. Such uses that meet the requirements above shall not require a permit issued by the Zoning Administrator but the applicant shall notify the Zoning Administrator in writing of intent to establish use.
- c. A state registered or licensed family child care home operated in a dwelling other than a single family dwelling (e.g. duplex, multifamily housing) shall be treated as a conditional use.
- d. A licensed day care facility shall be reviewed as a service establishment and are subject to conditional use and site plan review as appropriate.

C. Division of Land.

Standard lots. The Zoning Administrator may approve a zoning permit for the creation of new parcels if the parcels meet the minimum lot, frontage and access requirements for the district in which it is located.

Clustered lots. The purpose of allowing the creation of a few clustered lots is to expand the rights of landowners without the undue burden of meeting the full PUD requirements. The intent is to allow landowners of large parcel to remove up to three small lots for sale or for other purposes such as the creation of a parcel for a relative. The number of available lots for clustering is based on the clustering density of the district or districts involved.

The Zoning Administrator may approve the creation of three or fewer clustered parcels (not counting the residual parcel) provided:

1. The original parcel, prior to division, has adequate density available based on the district(s) in which it is located and any conditions on its title based on previous clustering of lots.
2. All new clustered parcels are at least one (1) acre in size and not greater than three (3) acres in size.
3. All new clustered lot(s) are for residential use including any home occupations, businesses and industries as permitted.
4. To the satisfaction of the Zoning Administrator, the title of residual parcel shall clearly indicate the transfer of density to the new lots and that the residual parcel will continue to have this parcel(s) counted with respect to future density calculations –even if the new parcels are no longer in common ownership or are vacant or otherwise not used for residential purposes. The new clustered parcel(s) including the residual parcel shall indicate the dwelling units were removed from the original parcel.

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5. All other appropriate standards are met with respect to the use of the lots including, but not limited to, setbacks, water supply, and wastewater disposal.

The creation of more than three clustered lots shall require an application for a Planned Unit Development (PUD).

D. Fences

Applicability: These regulations shall apply to all fences constructed of wood, masonry, metal, plastic, or other similar material whose primary purpose not agricultural in nature. These provisions are not applicable with respect to stone walls/fences, earthen berms, and hedgerows (and other vegetation).

Supplemental information: The applicant shall provide the following information:

1. The location of any proposed and/or existing fence must be shown on any site or sketch plan if presented.
2. For any fence proposed to be built on the property line, a letter signed by the abutting owner granting permission for on-line construction and access to perform routine maintenance.

Specific use standards: Permitted use: Fences may be approved by the Zoning Administrator provided:

1. The fence is not in any road or highway right-of-way or presents a hazard to vehicles.
2. Is not in the flood hazard area (otherwise see Specific use standards- Conditional use approval: below).

Specific use standards: Conditional use approval: Conditional use approval must be granted by the DRB for:

1. Fences in floodways and floodway fringe. Fences are prohibited from the floodway. Fences in the floodway fringe must not impede the flow of water during such an event. It will be the responsibility of the applicant to provide sufficient proof to the DRB that this requirement will be met.

E. Group and Residential Care Homes

1. A state registered or licensed residential care home serving 9 or more developmentally disabled or physically handicapped persons on a full time basis shall be reviewed as a multi-family dwelling and shall be subject to conditional use

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and site plan review as appropriate.

- a. Where such use is a conditional use, consideration shall be given to the nature of the residential care facility and the potential impact that such a home may have on the given neighborhood.
2. A state registered or licensed residential care home serving 8 or fewer developmentally disabled or physically handicapped persons on a full time basis conducted within a dwelling other than a single family dwelling shall be reviewed as a multifamily dwelling and shall be subject to conditional use and site plan review as appropriate.
3. A state registered or licensed residential care home serving 8 or fewer developmentally disabled or physically handicapped persons on a full time basis conducted within a single family dwelling by a resident of the property, shall not require a permit issued by the Zoning Administrator but the applicant shall notify the Zoning Administrator in writing of intent to establish use. [§4412(1)(G)]

E. Home Businesses and Industries

Purpose: The purpose of these provisions is to allow for small, home-based businesses and industries within residential areas while guarding the property rights of neighboring households.

Defining Home Businesses and Industries.

1. Home businesses and industries are more likely than home occupations to have an impact on neighboring properties. Home businesses and industries are treated as accessory uses to residential properties and must clearly be incidental and secondary to the residential use.
2. Home businesses and industries shall be carried on within the principal structure or accessory structures. A home business or industry cannot occupy more than 25% of the entire floor area of the primary (residential) structure.
3. The home business or industry shall be carried on by residents of the dwelling unit. Up to three additional employees who are not residents of the dwelling unit are permitted.
4. Some home businesses and industries include antique dealers, woodworking shops, small engine repair, and hair styling.

Specific Use Standards. In order to ensure that a home business or industry will not change the character of the residential area, the owner must demonstrate that it will comply with all of the following standards:

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1. All business activities or transactions associated with the home business or industry shall be carried on entirely within the dwelling unit or accessory structure.
2. The business shall not necessitate any change in the outside appearance of the dwelling unit other than the addition of a sign.
3. No traffic shall be generated which would be uncharacteristic of the neighborhood.
4. New parking required for the home business or industry shall be provided off-street.
5. No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home business or industry.

Where it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home businesses and industries above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located.

G. Home Occupations

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area. [§4412(4)]

A home occupation may be permitted as an accessory use in all districts where residential uses are permitted. A zoning permit application shall be submitted to the Zoning Administrator so that a determination can be made as to whether the proposed use is, in fact, a home occupation as defined by these regulations and shall not change the character of the neighborhood.

Defining Home Occupations.

1. Home occupations are accessory uses to residential properties, which are clearly incidental and secondary to the residential use.
2. Are conducted wholly within the principal structure and occupy less than 25% of the entire floor area of such structures.
3. Are not commercial in nature.
4. The home occupation shall be carried on by residents of the dwelling unit. One additional employee who is not a resident of the dwelling unit is permitted.

Character of Neighborhood. In order to ensure that a home occupation will not change the character of the residential area, the owner must demonstrate that it will comply with all of the

following standards:

1. All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit; no outside storage shall be permitted.
2. No traffic shall be generated which would be uncharacteristic of the neighborhood.
3. New parking required for the home occupation shall be provided off-street.
4. No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
5. Exterior displays or signs other than those normally permitted in the district shall be prohibited.

H. Mobile Homes

No zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. [§4412(1)(B)]

Mobile homes shall be treated the same as conventional homes except in a mobile home park (Section III (I)).

I. Mobile Home Parks

Applicability: It shall be unlawful to park, place, maintain, or permit more than two mobile homes on any one parcel except in conformance with these provisions. No person shall construct, expand, or alter a mobile home park without site plan approval and, where required by the district in which it is located, conditional use approval.

Specific Use Standards: All mobile home parks must conform to the following standards:

1. A mobile home park shall have a contiguous area of not less than 3 acres.
2. The overall density of any mobile home park shall not exceed that allowed in the district in which it is located or should be in accordance with Planned Unit Development regulations.
3. The minimum mobile home lot size shall be 1 acre unless all lots are provided with off-site sewage disposal or off-site water, in which case the minimum shall be ½ acre. Mobile home lot sizes shall be exclusive of roads.
4. Each mobile home lot shall have at least 50 feet of frontage on a mobile home park

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road. Building placement on each mobile home lot shall reflect a minimum setback requirement of 10 feet from each mobile home lot boundary. The DRB may vary this requirement as needed to meet particular site requirements.

5. Minimum side setbacks of 10 feet, and a minimum front setback from the access road of 25 feet are required for accessory structures on each lot.
6. A strip of land at least as wide as side setbacks for the district in which it is located shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit, office, utility, or service building may be placed in this buffer area. The DRB may increase this setback in order to provide privacy for adjacent property owners or for aesthetic considerations from public roadways.
7. Access roads shall have a minimum right-of-way width of 50 feet and a compacted gravel surface at least 20 feet wide and 12 inches deep, with asphaltic pavement.
8. A minimum of two off-street parking spaces for each mobile home lot shall be provided. Parking spaces shall be 9 ft. x 18 ft. The driveway shall count as parking spaces.
9. A non-porous pad of at least 4 inches thick shall be provided for each mobile home lot.
10. Sewage disposal, water supply, and garbage facilities shall comply with state regulations. All electric, telephone, and other utility lines shall be underground, unless the applicant can demonstrate that due to utility company standards or pricing procedures, an unreasonable financial hardship will be created. Even where utilities lines are proposed to remain above ground, utility lines servicing each trailer shall be underground.
11. Each mobile home park shall provide at least 10% of its total area for open space and recreational purposes for the use of park residents.
12. The mobile home park shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, floodplain, and views.

Regulation of lots within mobile home park: Mobile home parks and lots within mobile home parks may be owned and operated under a variety of rules, regulations, covenants, associations, etc.

1. For those not within an association or similar establishment the use and further subdivision of land are regulated by, but not limited to, these bylaws, the associated

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subdivision plat and any restrictions placed upon the title of the land.

2. For those within an association, limitations and changes of use can be regulated internally through the condominium associated or similar setup. Articles of association are contracts within the members of the association, they are not a substitute for, nor do they supercede any zoning bylaws. If given internal approval, the project must still receive DRB approval for such change of use. The Zoning Administrator does not enforce nor mediate disputes regarding any articles of association or park rules.

Conditions of Approval: The DRB shall have the power to impose reasonable conditions and safeguards to ensure the safety and general welfare of surrounding properties when approving mobile home parks including:

1. The DRB may establish such conditions as to the ownership, use, and maintenance of open space and recreation as it deems necessary to assure the preservation of such lands for their intended purpose.
2. The DRB may require that certain facilities, such as laundry and playgrounds, be provided within the mobile home park if facilities are not readily available to park residents.

J. Planned Unit Developments (PUD)

Applicability: In any district, the Zoning Administer shall not issue a permit for the creation of a planned unit development or for development of a structure or use within a PUD until approval is granted by the DRB.

1. No subdivision plat shall be approved for a PUD without meeting the provisions within this section and all other applicable subdivision plat requirements.
2. The subsequent development of lots within a PUD shall be regulated through the normal permit process as prescribed for the district in which the structure or use is located unless the development requires flexibility in the placement of structures or uses as well (i.e. flexibility with respect to setbacks and other dimensional requirements). Where the proposed location of a structure will not meet minimum standards of these bylaws, the DRB must approve the location of the structure. It is recommended but not required that an application for plat approval be conducted simultaneous to any approvals for the use of said lots.

Purpose: Planned Unit Developments (PUDs) are permitted in order to encourage flexibility in design and unified treatment of the development site; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the Town. Accordingly, the DRB may modify the area and dimensional

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requirements of these regulations simultaneously with site plan approval. Such modifications shall be subject to the general and specific conditions and standards in this section and in the district regulations, where applicable. [§4417]

Application Procedure: In addition to material presented for subdivision plat approval and any zoning permits, conditional use reviews, and site plan reviews being pursued in connection with proposed uses within the PUD, the applicant shall submit 2 copies of the following information to the DRB:

1. A statement setting forth the nature of all proposed modifications of this bylaw and the proposed standards and criteria which the applicant proposes for the development, including standards for the design, bulk, and spacing of buildings and sizes of lots and open space.
2. Limits of use, if any.

Regulation of lots within PUD: PUDs may be part of an association or lots may be sold as individual lots absent of.

1. For those not within an association, such provisions shall be made for the regulation and management of any common land. In these types of PUDs, the use and further subdivision of land are regulated by, but not limited to, these bylaws, the associated subdivision plat and any restrictions placed upon the title of the land.
2. For those with an association, limitations and changes of use can be regulated internally through the condominium associated or similar setup. Articles of association are contracts within the members of the association, they are not a substitute for, nor do they supercede any zoning bylaws. If given internal approval, the project must still receive DRB approval for such change of use. The Zoning Administrator does not enforce nor mediate disputes regarding any articles of association.

Review Standards – Site Plan Review: The following shall be met in order for the DRB to approve the application:

1. Predominant uses of the site shall not differ substantially from those allowed within the district where the project is located. Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in the development.
2. A percentage of the land should be set aside for open space, parks, recreation areas, or other municipal purposes. The amount of land so designated shall be determined on the merits, purposes, and conditions of the individual proposal. Further, the DRB may establish conditions on the ownership, use, and maintenance of said lands for their intended purposes.

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- a. The open space shall first protect agricultural soil resources. Recreational, environmental, and other common lands for community facilities shall be secondary where agricultural land is present.
3. In any PUD, the maximum number of units shall be determined based on the provisions of Subsection IV-A (A)(5).
4. No lot may be created which does not meet the state's minimum lot size requirements of 1/8 acre and minimum dimension, including frontage, of 40 feet.
5. The DRB may grant a density increase of up to 25% of the allowable number of units in instances where the site conditions will allow.
6. The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Lamoille River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, floodplain, and views.
7. The minimum project size for any PUD shall be 3 acres.
8. The minimum setback and yard requirements for the district in which the project is located shall apply to the periphery of the development.
9. The PUD will meet, at a minimum, local and state regulations for sewage disposal and the protection of surface and ground water quality.
10. The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.

K. Ponds

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.

General requirements. The creation of ponds and other impoundments as an accessory use upon application and receipt of a zoning permit. In addition to other application requirements, the applicant must provide:

1. Any pond that will impound, or be capable of impounding in excess of 500,000 cubic feet of water must receive a permit from the Vermont Department of Environmental

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Conservation in accordance with 10 V.S.A. Chapter 43.

2. If the project necessitates any work in a stream and if 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, such permit or approval has been received.
3. If the project requires a permit or approval due to impacts on wetlands; rare, threatened, or endangered species; or the passage of fish; or if the project requires a permit or approval from the US Army Corps of Engineers, the Act 250 District Commission, or any state or federal authority, such permit or approval has been received.
4. 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 licensed engineer 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.).
5. All impoundments must have an emergency spillway, designed by a Vermont licensed engineer, capable of passing flows that exceed what the control structure is capable of handling. All drainage shall flow into established watercourses.

Conditional use review. All ponds and other impoundments 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 the use of public utilities.

Conditions of approval. Upon issuance of conditional use approval, the DRB 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.

L. Signs

Applicability. A building permit shall be required prior to the erection, construction, or

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replacement of any outdoor sign. All signs shall be treated as permitted uses in any district except the flood hazard area, which shall be treated as a conditional use.

Exemptions: The following signs are exempt from the requirements of this section:

1. Signs erected by the Town or State on public roads
2. Political signs. All signs associated with an election or vote shall be promptly removed following the date of election or vote.
3. All temporary signs such as lawn or garage sale signs. All such temporary signs shall be promptly removed when they have fulfilled their function.
4. Temporary real estate or construction signs not to exceed 16 square feet in area and 6 feet in height. Such signs shall be promptly removed when it has fulfilled its function.
5. Signs on public structures.

Prohibited Signs. The following shall be prohibited in all districts:

1. Signs that impair highway safety
2. Signs painted or placed on rock outcrops or similar natural features.
3. Roof signs, and wall signs which extend above the roof line.
4. Signs which project over public rights-of-way or property lines

Sign Maintenance. All signs shall be of durable materials and shall be maintained in good condition. The Zoning Administrator is empowered to order the removal of any sign which has fallen into disrepair and which has not been repaired after 30 days notice.

Signs in Residential Areas. On any residential property, a sign not exceeding 4 square feet may be permitted which announces the name, address, or professional or home occupation of the occupant of the premises on which said sign is located.

Business Signs. No more than 2 business signs may be permitted on any business or industry premises. Signs shall meet the following standards:

1. Number. Two signs are permitted for each business premises - 1 free-standing, and the other attached to the building.
2. Size. Maximum size of any sign shall be 50 square feet, or a total of 75 square feet

for 2 signs.

3. Content. The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises; not for the purpose of making advertising claims. Sexually explicit or other inappropriate content shall be prohibited.
4. Illumination & animation.
 - a. Signs may be illuminated only during those hours that the business being advertised is open for business.
 - b. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon the sign itself.
 - c. Signs shall be illuminated by a steady light, which must be of one color only.
 - d. Internally illuminated signs are prohibited.
 - e. Signs which are animated, gaudy, or containing strings or pennants or similar attention-gathering media is prohibited.

Directional and safety signs. Signs to guide traffic and circulation or to protect public health and safety shall not count against sign totals provided they are only as large as necessary and carry only the needed information. For instance, “entrance only”, “exit only”, “parking in back of building”, “watch for falling ice” etc. are appropriate directional and safety signs.

Off-Premise Signs. Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to state statute and regulation.

Signs at Edge of Highway. In any zoning district, notwithstanding the district setback requirement for structures, freestanding signs of 8 feet in height or less may be placed at the edge of the highway right-of-way. However such signs shall not be located within 15 feet of adjacent private property or an intersection.

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

1. Existing signs shall be included in the calculation of total sign area.
2. The total area of all signs shall not exceed the requirements as set forth in these regulations.
3. Sign measurement shall be the area included within the extreme limits of the sign surface.
4. Signs consisting of freestanding letters, numerals, or other devices shall include any

intervening space between them.

5. Only the larger face area of a double-faced sign shall be counted.
6. Back-to-back signs may be counted as one sign.

M. Wireless Telecommunications Facilities

Purpose. The purpose of these provisions is to protect the public health safety and general welfare of the Town of Hyde Park while accommodating the communications needs of residents and businesses. These provisions shall:

1. Preserve the character, appearance and property values of the Town of Hyde Park while allowing adequate telecommunications services to be developed.
2. Protect scenic, historic, environmental, and natural resources of the Town of Hyde Park through careful design and siting standards.
3. Provide standards and requirements for the siting, design, appearance, construction, monitoring, modification, and removal of wireless telecommunications facilities.
4. Minimize tower proliferation by requiring the sharing of existing communications facilities where possible and appropriate.
5. Facilitate the provision of telecommunications services to the residents and businesses of the Town of Hyde Park.
6. Encourage the location of towers in nonresidential areas and away from sensitive areas such as Well Head Protection Areas, wetlands, and endangered species habitat.

Consistency with Federal Law: In addition to other findings required by this bylaw, the Zoning Administrator or DRB shall find that its decision regarding an application is intended to be in conformance with current Federal law and current FCC regulations. The bylaw does not:

1. Prohibit or have the effect of prohibiting the provision of personal wireless services.
2. Unreasonably discriminate among providers of functionally equivalent services; and
3. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the current FCC regulations concerning such emissions.

Specific Use Standards: Specific use standards for wireless telecommunication facilities include provisions regulating both wireless telecommunications equipment and wireless

telecommunications towers under these provisions.

Wireless telecommunication equipment include all equipment (including repeaters) with which a wireless telecommunications system transmits and receives the waves which carry their services. Equipment may be mounted on towers, buildings, or other structures.

1. Small telecommunication equipment (dishes less than 24 inches or antennas) is considered part of the structure on which it is attached. Equipment meeting this standard are exempt under zoning permit exemptions (Section V(A)).
2. Large telecommunication equipment (those not meeting the standards for small telecommunications equipment) is subject to conditional use review and site plan review.
 - a. Where possible, equipment must be disguised, camouflaged, hidden, or positioned such that its view is limited from public places (roads, etc). Stealth technologies must be used where available.

Wireless telecommunication towers are structures whose primary purpose is to support wireless telecommunication equipment and which will extend vertically 20 feet or more. All wireless telecommunications towers require conditional use approval and site plan approval. Existing structures such as church steeples and agricultural barns and silos are not considered towers provided the mounting of telecommunications equipment is secondary to another use. Use of existing structures must meet application requirements (a) through (d) in (1) below.

1. Application requirements: A report and design by a qualified and licensed engineer and other documentation by the applicant or representative that:
 - a. Describes the height, design and elevation of the tower or structure.
 - b. A site plan that includes
 - i. A location map, typically a portion of the most recent USGS Quadrangle or map constructed with similar information, showing the area within at least a two-mile radius of the tower site.
 - ii. A vicinity map showing the entire vicinity within a 2,500 foot radius of the tower site including the telecommunications facility, topography, public and private roads and driveways, buildings and structures, water features, wetlands, landscaped features, historic sites and habitat for threatened and endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights-of-way needed from a public way to the tower.
 - iii. A site plan showing, in addition to the other application requirements for site plan approval, all structures, topography, public and private roads and

Zoning Bylaws for the Town of Hyde Park (2008) driveways, water features, wetlands, landscaped features, historic sites, habitat for threatened and endangered species, existing vegetation, and property lines within 500 feet of the proposed tower location as well as a circle delineating the tower's 'fall zone'.

- iv. Elevations showing all facades and indicating all exterior materials and colors of towers, buildings and associated facilities.
 - c. Document proof of compliance with all FCC requirements.
 - d. Documents of steps the applicant will take, including an intermodulation study, in order to avoid interference with any established or proposed public safety telecommunications.
 - e. If a telecommunication tower is proposed, a comprehensive regional tower plan detailing all potential and existing towers used by the telecommunications provider and how the proposed tower contributes to the overall plan for maximum coverage with a minimum of towers. The Town of Hyde Park is essentially requesting the telecommunication provider's master plan for the region.
 - f. Documents that the applicant is a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Zoning Administrator at the time of application.
 - g. Documents, for new tower locations, that co-location on an existing tower are not a feasible option.
 - h. The DRB may require a commitment by the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements.
2. Specific Use Standards- Conditional use review: The following standards apply to all towers and equipment requiring conditional use approval.
- a. Permissible/ prohibited locations. Telecommunication towers of any size are prohibited within the WHPA districts and Shoreline district. Except in the WHPA and shoreline districts:
 - i. Telecommunication towers less than 40 feet tall are permissible in any district.
 - ii. Telecommunication towers up to 120 feet tall are permissible in all districts except in the North Hyde Park or Garfield zoning districts as described on page 8.
 - b. Fall zones. The owner of a tower site must own the entire fall zone of a tower.
 - i. The fall zone shall be a circle around the tower whose

Zoning Bylaws for the Town of Hyde Park (2008) radius is the height of the tower; the effect of which is to show the potential area of impact in the event of catastrophic failure. This exercise is not to evaluate the likelihood of failure but to examine the worst-case scenario (terrorism, major accident, extreme negligence, etc.).

- ii. The fall zone shall be free of all other uses including, but not limited to, residential, commercial, and industrial uses. Agricultural uses are permitted within fall zones.

c. Minimizing towers. The proposal must demonstrate that the proposed tower contributes to a regional tower plan that maximizes coverage with a minimum of towers.

- i. Applications for new towers- where an alternative structure already exists that is suitable, available, and will achieve the same or better level of service, the alternative structure must be used

- ii. Co-location requirements. The application for a new telecommunications tower shall not be approved unless the DRB finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure, due to one of the following reasons:

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

- The proposed equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a

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reasonable cost.

- The proposed equipment, either alone or together with existing equipment, would create RFI or RFR in violation of Federal standards or requirements.
 - A cost-benefit or other fiscal analysis demonstrates that the provider will be placed at an unfair disadvantage competitively against other providers in the area.
 - Existing or approved towers cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.
 - Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing tower.
 - There is no existing or approved tower in the area in which coverage is sought.
 - Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing tower.
- d. Speculation prohibition. An applicant for a telecommunications tower permit must be a telecommunications provider or must have an executed contract to provide land or facilities to an existing telecommunications provider. A permit shall not be issued for a tower to be built on speculation.
- e. Fencing. All tower sites shall be fenced to reasonably prevent access to the tower and all accessory buildings associated with the telecommunications facility.
- i. Where a church steeple, silo, or other existing structure is proposed as a tower, the applicant must demonstrate that access to the wireless telecommunications equipment is secure - doors accessing steeple area are secured; areas within silos and barn that contain communications equipment are not accessible except by authorized personnel; etc.

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- f. FCC compliance. All new telecommunications facilities must comply with FCC regulations.
 - g. Environmental restrictions. No wireless telecommunications tower and/or large telecommunications equipment shall be located:
 - i. Within 500 feet of the habitat of any state listed threatened or endangered species.
 - ii. Within 200 feet of any Class II or higher wetland.
 - iii. Within 200 feet of any river or perennial stream
 - h. Interference with public safety telecommunications. No telecommunications equipment shall be placed, constructed or operated in such a manner as to interfere with public safety telecommunications. All applications for new wireless telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing operating new service or changes to existing service, telecommunications providers shall notify the municipality at least ten (10) days in advance of such changes and allow the municipality to monitor interference levels during that testing period.
3. Specific Use Standard- Site Plan Review: The following standards apply to all towers and equipment requiring site plan approval.
- a. Aesthetics. Towers must be disguised, camouflaged, hidden or positioned such that its view is limited from public places (roads, etc). Stealth technologies must be used where available. Towers and equipment and any necessary support structures shall be designed to minimize the visual impacts on the surrounding environment, except where the Federal Aviation Authority (FAA), state or federal authorities have dictated color.
 - i. Use of existing structures such as in a church steeple or agricultural structure (silos and barns) shall be considered to meet the aesthetic criteria provided the equipment and other accessory building and parking, etc. meet landscaping and screening requirements.
 - b. The tower shall not be lit except for manually operated emergency lights for use only when operating personnel are on site.
 - c. No advertising signs or lettering shall be placed on a tower, accessory building, or communication equipment shelter.
 - d. The Balloon test. Within 35 days of submitting an application, the applicant shall arrange to fly, or raise on a mast, a three foot diameter brightly colored balloon at the maximum height of a tower and within fifty feet of the center of the proposed tower. The date, time alternative weather date, and location of this balloon test shall be

Zoning Bylaws for the Town of Hyde Park (2008) advertised by the applicant at one and two consecutive weeks in advance of the test date in the News & Citizen and the Transcript, or equivalent thereof. The applicant shall inform the Hyde Park DRB and abutting property owners in writing, at least two weeks in advance. The balloon shall be flown for at least six consecutive daylight hours sometime between 8 a.m. and 6 p.m. on the dates chosen. The DRB shall witness the balloon flight. The applicant shall include, as evidence, photography of the balloon test taken with a lens within the range of 105 to 135 millimeters, from at least 10 different locations of the choosing of the DRB.

- e. **Screening.** All wireless telecommunication facilities not concealed within an existing building (such as church steeples, silos, barns, etc.) shall be screened from view by suitable vegetation except where a design of non-vegetative screening better compliments the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact of facility on surrounding properties and other vantage points.
4. Temporary Wireless Communications Facilities. Any wireless telecommunications facility designed for temporary use is subject to the following:
- a. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Hyde Park.
 - b. Temporary wireless telecommunications facilities are permitted for no longer than five days during a special event.
 - c. The maximum height of a temporary facility is 50 feet above grade.
 - d. Temporary facilities must comply with all portions of these regulations applicable to the request.
5. Abandonment of Wireless Telecommunications Facilities. Abandoned towers or abandoned portions of towers (above highest operating equipment) shall be removed as follows:
- a. Any tower or portion of a tower shall not be re-established if such use of said tower or portion of tower has been discontinued for a period of at least one-year. Once the tower or portion of said tower has been deemed abandoned, a zoning permit must be acquired to resume the original use. Intent to resume shall not confer the right to do so.
 - b. In the event the tower is not removed within the one year time period from the cessation of use, the municipality may remove the

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tower and all associated equipment and the costs of removal shall be assessed against the property or tower owner.

- c. In accordance with §4414(12), the DRB may require a bond be posted, in an amount acceptable to the Selectboard, at the time of approval of the wireless telecommunications tower application sufficient to cover the decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements.

Section IV. General Regulations and Review Criteria

Subsection IV-A. Zoning Permit Review Criteria

A. Setback and Density Requirements

1. **Setback requirements:** All primary and accessory structures shall conform to the minimum setback requirements of the district in which they are located. The setback is a horizontal line from a road, lot line, boundary or other designated feature, to the nearest part of a structure being examined. Setbacks are established in Section II for each district.
 - a. **Road.** Road setback requirements (as established by the district in which the lot is located) shall be applied from any public right-of-way, private street, or easement (corner lots, therefore, must meet road setbacks on two roadways). The setback shall be measured from the edge of the right of way except in cases where the right-of-way is less than 50-feet wide. In these latter cases the front setback shall be measured from the centerline of the existing roadway and 25 feet shall be added to the front requirement.
 - b. **Other property line.** Setback requirements from other property lines shall be applied from any property line not meeting the requirements established in subsection a.
 - c. **Lakes and Ponds.** Setbacks to lakes and ponds apply to all structures including septic systems and leach fields. Setbacks are measured from the mean high water mark for the water-body in question.

2. **Setback waivers:** Waivers of minimum setback requirements may be granted by the DRB following conditional use approval. The applicant must demonstrate:
 - a. A structural or functional necessity;
 - b. That there will not be an undue adverse environmental or aesthetic effect upon adjoining properties; and
 - c. That the waiver, if authorized, will represent the minimum waiver necessary that will afford relief and will represent the least deviation possible from the zoning regulations and town plan.

3. **Density requirements:** All residential uses must not exceed maximum allowable densities for the district in which they are located. Densities are established in Section II for each district.

4. **Determining lot size:** Except lots in mobile home parks all lot sizes shall include the entire extent of the parcel including lands considered not developable such as wetlands and portions under roadways (to center of right of way) or other rights of way. Any state highway and any Class 1, 2, or 3 town highway shall be considered

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to subdivide a lot. Class 4 roads and private rights of way across properties shall not be considered to subdivide a parcel.

5. Calculation of density: For purposes of density, the number of dwelling units permissible shall be the sum of the permissible units in each district of the entire parcel. All sums are rounded down. (For example, a parcel with 4.2 acres in RR2 and 8.5 acres in RR5 will have 2.1 units + 1.7 units or 3.8 units- rounded down to 3 units). These units may be constructed in either district provided it is a permissible use within that district (a 3 unit apartment, 3 single family dwellings, Planned Unit Development, etc).

B. For parcels that are present in two or more zoning districts

The provisions of the district within which the structure is being constructed or use being proposed shall apply. (For example, part of parcel A is in RR5 and the remaining portion is in the WHPA. The landowner cannot build a commercial operation on the portion of his/her property that lies in the WHPA but could build one on the portion of land in RR5 with approval).

C. Frontage and Access

1. No land development is permitted on lots that do not have either frontage on a public or private road or a permanent easement or right of way of record approved by the DRB [§4412(3)]. Minimum frontage is established in Section II for each district.
 - a. All rights of ways must be at least 50 feet wide and be suitable to construct a driveway that meets town standards.
2. Frontage applies to all property lines bordering public or private roadways.
3. All new and improved driveways must be issued an access permit by the Selectboard prior to issuing a zoning permit.

D. Height Limits

Unless expressly allowed elsewhere in these bylaws, no structure shall exceed 40 feet in height above the average ground level. Antennas, windmills, rooftop solar collectors, and other accessory structures shall comply with the permissible height of structures requirement. [§4412(6)]

The DRB, through conditional use review procedure may permit a structure to exceed the applicable structure height maximum provided the character of the neighborhood is not affected and the structure does not constitute a hazard.

Height is measured from the average grade at the base of the structure to the highest peak of the roof.

E. Abandoned uses

Any use of a lot or structure shall not be re-established if such use has been discontinued for a period of at least one-year. Once the use of a lot or structure has been deemed abandoned, a zoning permit must be acquired to resume the original use. Intent to resume a use shall not confer the right to do so.

F. Unintentionally damaged or destroyed structures

The reconstruction of structures that are unintentionally damaged or destroyed is permitted provided the new structure:

1. Is used for the same purposes as the old structure, and
2. Is substantially the same size and dimensions as the previous structure, and
3. All existing setback distances are not reduced.

Owners have two (2) years to commence redevelopment of the parcel following date of unintentional damage or destruction or a new permit for land development will be required.

G. Pre-existing non-conforming lots (existing small lots)

Any lot in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located (following the receipt of a zoning permit from the Zoning Administrator), even though not conforming to minimum lot size requirements found in Section II of these bylaws, provided such lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet [§4412(7)].

All other provisions of these bylaws must be met including setback requirements. This section does not negate the need for obtaining any other required permits or approvals as would normally be required under these bylaws. Any required conditional uses, site plan approvals, variances, and other permits must be obtained prior to the issuing of a zoning permit.

H. Non-conforming structures

Any legal structure or part thereof, which is not conforming with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as signs, parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a non-conforming structure [§4412(7)]. Legal non-conforming structures exist as a result of construction prior to adoption of bylaws, construction under an earlier set of less restrictive bylaws, or through a variance issued at any time. Any non-conforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

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1. Except in the Flood Hazard Area Overlay district, a non-conforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is completed within two years and does not increase the degree of non-conformance that existed prior to the damage.
 - a. Non-conforming structure within the Flood Hazard Area Overlay District must be reconstructed in accordance with the Flood Hazard Area Overlay District Standards [§4424(2)].
2. A non-conforming structure shall not be moved, altered, extended, or enlarged in a manner that will increase the existing degree of non-conformance.
3. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformance.
4. The phrase ‘shall not increase the degree of non-conformance’ shall be interpreted to mean that the portion of the structure that is non-conforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking). Therefore, portions of a structure within a setback area cannot be enlarged, portions above the maximum height cannot be expanded, a non-complying deck or porch cannot be enclosed, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
5. Alteration or expansion of a non-conforming structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes is permissible with approval by the DRB.
6. A non-conforming structure that has been demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.

L. Non-conforming Uses

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a non-conforming use [§4412(7)]. Non-conforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any non-conforming use may be continued indefinitely, but shall be subject to the following provisions:

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1. The non-conforming use shall not be changed to another non-conforming use without approval by the DRB, and then only to a use that, in the opinion of the Board, is of the same or of a more conforming nature.
2. The non-conforming use shall not be expanded, extended, moved or enlarged unless it is determined that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance.
3. The non-conforming use shall not be re-established if such use has been discontinued for a period of at least one-year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
4. The phrase ‘shall not increase the degree of non-conformance’ shall be interpreted to mean that the aspect of the operation that is non-conforming shall not increase in size (or decrease in the event of failing to meet minimum standards). Therefore, a non-conforming use may not increase hours of operation, increase numbers of tables, number of employees or increase the size of the operation through the expansion of a complying structure.
5. Alteration or expansion of a non-conforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes is permissible with approval by the DRB.

Subsection IV-B. Parking and Loading Criteria

In accordance with §4414(4), provisions are hereby established for permitted and required facilities for off-street parking and loading, which may vary by district and by uses within each district. These regulations include provisions covering accesses, driveways, and parking.

For uses requiring site plan approval, these standards shall be reviewed by the DRB as a part of that review. For uses not required to receive site plan approval, the Zoning Administrator shall review and approve the application for compliance with these provisions.

A. Access

The purpose of access requirements is for the town to ensure safe and efficient entrance and exit from public roadways, to reduce damage from flooding events, to mitigate erosion and stormwater runoff impacts, and to ensure quality construction of driveway accesses.

The DRB, Selectboard, and VTrans have separate authorities in approving accesses. Through these regulations the DRB has all authority (layout and design) of accesses onto private roads. The Selectboard has all authority over layout and design of accesses onto public highways. VTrans requires a state highway access permit for any access onto a state highway. VTrans has all

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authority over these accesses although the DRB will provide comment and recommendations to VTrans.

The DRB shall review all accesses onto private roads to ensure they meet the Town of Hyde Park highway access standards.

B. Driveway standards.

Driveway standards apply to all private driveways and private roads serving fewer than four lots. Where a private road serves four or more lots the road must meet the private road standards provided in the Town of Hyde Park Subdivision regulations.

1. Pedestrian circulation.
 - a. A safe and attractive pedestrian environment shall be provided as appropriate to the use and district.
 - b. Adequate access from the parking area and sidewalks to building(s) that are open to the general public shall be provided for people with disabilities.
2. Driveways shall not have slopes greater than eight (8) percent so as to accommodate fire and rescue access. Drives with slopes up to ten (10) percent may be allowed provided they are paved and ditched to prevent erosion. Driveways should also maintain a width and turning radius of not less than:
 - a. 10 feet wide and a minimum 5-foot turn radius for residential development. Driveway widths and turning radius may be larger to accommodate future development but should be kept as narrow as possible for aesthetic reasons.
 - b. 18 to 36 foot width and a minimum turn radius of 10 to 30 feet for commercial and industrial sites in order to accommodate two-way traffic and turning trucks. The larger the trucks, the larger the turning radius and wider the driveway. Driveways may be wider to accommodate future development but should be kept as narrow as possible for aesthetic reasons.
3. No driveway shall be constructed within 10 feet from a property line unless the driveway acts as a shared driveway. This standard does not apply within North Hyde Park and Garfield districts.
4. Driveways should be long enough to allow adequate space for vehicles pulling off of the roadway and stacking to enter the road. This is generally not necessary for residential properties and at least 50 feet is required for commercial properties. Those uses that require larger trucks to pickup or deliver may need longer driveways for stacking (up to 150 feet long).

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5. Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
6. Parking and driveways should be designed to allow vehicles to turn around so that there is no backing onto roadways.
7. Circulation within sites should account for any anticipated loading needs, solid waste removal, and snow removal.

C. Parking

The following parking and loading standards are to be met by all development:

1. An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. For purposes of rough computation, an off-street parking space with access and maneuvering room is estimated to be 300 square feet.
2. Off-street parking spaces shall be provided in accordance with this section in any district whenever any new use is established, or when the present use is enlarged or changed. The required spaces are detailed on the table below:

USE	REQUIRED PARKING SPACES
Residential – including PUD	2 per dwelling unit
Lodging	1 per lodging unit
Medical clinics and group homes	1 per 3 beds plus 1 per employee (based on highest expected shift)
Non-profit clubs	1 per 4 members
Churches, schools, public assembly	1 per 3 seats in the principal assembly room
Professional & business services	1 per 250 sq. ft. floor space
Retail establishments	1 per 300 sq. ft. floor space
Restaurants	1 per 4 seats plus 1 per employee (based on highest expected shift)
Industry	1 per 1 employees (based on highest expected shift)
Unspecified uses	As required by the DRB

3. Parking is prohibited within the front setback area where alternate space for parking is available elsewhere on the lot.
4. All open parking areas shall be properly drained in accordance with accepted best management practices for stormwater drainage. Relocation or redesign of parking areas may be required to limit runoff and control erosion.

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5. The DRB may require additional off-street parking and loading spaces if it is determine that the minimum required spaces are insufficient.
6. Shared parking is encouraged and may be required. Required parking spaces may be provided in parking areas designed to jointly serve two or more establishments, whether or not they are located on the same lot, provided the number of required spaces in such joint facilities shall not be less than the total required for all such establishments. Where the two or more establishments have different peak use times, a reduction in the number of spaces may be permitted by the DRB.
7. For any property open to the public (commercial, retail, industrial uses) adequate parking facilities for people with disabilities is required.
8. Where appropriate all uses must provide details on loading requirements including:
 - a. Site plans are required to show loading facilities including refuse removal.
 - b. Loading should not interfere with on site circulation and parking.
 - c. Loading shall not interfere with pedestrian circulation.
9. Provision shall be made for efficient snow removal of all parking, circulation, pedestrian and loading facilities. Sufficient space must present for the storage of snow and the subsequent melt so as to minimize flooding of these areas.
10. Parking areas for uses other than single and two-family dwellings will be required to be landscaped or screened from adjacent uses. (See site plan review criteria.)

Subsection IV-C. Conditional Use Review Criteria

A. General Conditional Use Standards

Conditional use approval shall be granted by the DRB only upon finding that the proposed development will not result in an undue adverse effect on (or has been mitigated through conditions imposed) the following [§4413(3)(A)]:

1. The capacity of existing or planned community facilities or services. The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (e.g. school capacity, water and sewer capacity, emergency services, recreation facilities). In making such a determination, the Board will consider any capital program or budget in effect at the time of application.
2. The character of the area affected. The board shall consider the design, location, scale, and intensity of the proposed development and/or use, relative to the

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3. Traffic on roads and highways in the vicinity. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways, and intersections (e.g. a reduction in existing level of service below “C”).
4. Bylaws now in effect. Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including compliance with conditions of prior permits or approvals.

Subsection IV-D. Site Plan Review Criteria

Site plan review criteria also include Parking and Loading standards in Subsection IV-B of this Section.

A. Exterior Lighting

Application requirements. On all projects requiring site plan approval, the installation or replacement of outdoor lighting requires the approval of the DRB. Sufficient information is required to be provided by the applicant to ensure the applicable provisions will be satisfied, including:

1. Specifications for all proposed lighting fixtures including photometric data, designation as Illumination Engineering Society of North America (IESNA) “cut off” fixtures, Color Rendering Index (CRI) of all lamp bulbs, and other descriptive information on the fixtures;
2. Proposed mounting height of all fixtures and angle of projection;

General requirements. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.

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Exterior lighting shall be limited to cut-off fixtures. Wherever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

Such fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive levels of illumination, or result in direct illumination of neighboring properties.

Electrical service to outdoor lighting fixtures will be underground unless mounted directly on a utility pole.

Lighting fixtures and bulbs are to be energy efficient.

Holiday lighting shall be exempt from these provisions provided such lighting does not create a hazard.

Specific standards.

Parking lot lighting. Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and not to cause glare or directly illuminate onto adjacent properties or streets.

1. All lighting fixtures serving parking areas shall be cut off fixtures.
2. The maximum mounting height shall not exceed twenty (20) feet.
3. The minimum illumination level (at the darkest spot in the parking lot) shall be no less than 0.3-foot candles and no more than 0.5-foot candles.
4. A minimum color-rendering index of 65 is required.

Lighting of gasoline service stations/ convenience store aprons and canopies. Lighting levels in gasoline stations and convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the business. Signs allowed under other provisions of this bylaw shall be used for that purpose.

1. Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements of the parking area standards set forth above.
2. Areas around the pump island and under the canopies shall be illuminated such that the minimum horizontal illumination at grade level is at least 1.0-foot candles and no more than 5.5-foot candles. The uniformity ration (ratio of average to minimum

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illumine) shall be no greater than 4:1, which yields an average illumination level of no more than 22.0-foot candles.

3. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy so that the light is restrained to no more than 85 degrees from vertical.
4. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the side fascias of the canopy shall not be illuminated.

Lighting exterior displays/ sales areas. Lighting levels on the exterior displays/ sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the business. The applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. The designation must be approved by the DRB.

1. Areas designated as parking or passive vehicle storage shall be illuminated in accordance with the requirements for parking areas suggested above.
2. Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal luminance at grade level is no more than 5.0-foot candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 4:1. The average and minimum shall be computed for only the area designated as exterior display/ sales area.
3. Light fixtures shall meet the IESNA definition of cutoff fixtures and shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent properties.
4. Fixtures shall be mounted no more than twenty (20) feet above grade, and mounting poles shall not be located either inside the illuminated area or no more than ten (10) feet away from the outside edge of the illuminated area.

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

1. The maximum illumination on any vertical or angular surface shall not exceed 5.0-foot candles.
2. Lighting fixtures shall be carefully located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed towards adjacent streets or roads.

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3. Lighting fixtures mounted on the building and designed to wash the building in light are preferred.
4. To the extent practicable, lighting fixtures shall be directed downward (i.e. below the horizontal) rather than upward.
5. When landscaping is to be illuminated, the DRB shall first approve a landscaping lighting plan that presents the purpose and objective of the lighting, shows the location of all lighting fixtures and what landscaping each is to illuminate, and demonstrates that the installation will not generally exceed light levels, cause glare or direct light beyond the landscaping into the night sky.

Lighting of walkways, bikeways and parks. Where special lighting is to be provided for walkways, bikeways, or parks, the following requirements shall apply:

1. The walkway, bikeway, or ground area shall be illuminated to a level of at least 0.3-foot candles and not more than 0.5-foot candles.
2. Lighting fixtures shall be designed to direct light downward and light sources shall have initial output of no more than 1000 lumens.
3. In general, lighting shall be consistent with the guidelines presented in the IENSA Lighting Handbook.

B. Landscaping and Screening

Plantings shall be chosen to fit the specific characteristics and design of the site, and be suited to the climate of the area.

In determining the amount and type of plantings to be required, the DRB shall take into account at least the following:

1. Existing trees, shrubs, evergreens, and other vegetation to be preserved on the site;
2. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
3. The landform and overall landscaping plan for the development;
4. Other factors which, in the Board's judgment, affect the safety and appearance of the development.

Adequate setbacks and site grading should be provided to ensure that the plantings are not

adversely affected by traffic and road salt.

Street trees may be required along state and town highways.

Where new commercial uses, utility substations, or public uses are adjacent to a lot used for residential purposes, a strip of not less than 15 feet is required as a buffer and shall be suitably landscaped with dense evergreens or other suitable planting.

Parking areas should be landscaped or screened from adjacent uses and from the roadways in the vicinity. All new parking lots may be required to be screened by a strip not less than 5 feet in width, and if necessary, be planted with dense evergreens or other planting. If the DRB determines that plantings are not appropriate, it may approve a suitable fence.

Plantings, when installed, are to be of a size and shape approved by the DRB. If the DRB determines that the landscaping will take several years to accomplish the desired screening/buffering effect, they may require that fencing be installed and maintained during the interim.

To control erosion, the site plan shall meet the following standards:

1. The development plan shall fit the topographic, soil, and vegetation characteristics of the site with a minimum of clearing and grading.
2. No clearing or grading shall take place within 25 feet of streams.
3. Existing natural drainage patterns shall be preserved wherever possible.
4. Landscaping shall not create slopes greater than 30 percent (3:1) unless a retaining wall or other mechanism is used to ensure future erosion and/or slumping does not occur.
5. The sequence of construction activities shall be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is taking place should be exposed. All other areas should be protected by vegetative and structural control measures.
6. Seed and mulch shall be applied as soon as possible to disturbed soils.
7. Disturbance should be avoided as much as possible between October 15 and May 1.

Landscape improvements: Particular consideration shall be given to the visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.

Landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well kept

grasses, ground cover, and site modifications such as berms.

Landscaping is required to be installed and maintained in front and side yards and may be required where rear yards abut residential properties or public roads. Adequate setbacks and site grading may be required to insure that the plantings are not adversely affected by traffic and road salt. Street trees may be required along state and town highways particularly in the village districts. Landscaping shall be installed in the time frame established by the DRB.

In determining the amount and type of plantings to be required, the DRB shall take into account at least the following:

1. Existing trees, shrubs, evergreens, and other vegetation to be preserved on the site;
2. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
3. The landform and overall landscaping plan for the development;
4. Other factors which affect the safety and appearance of the development.

Subsection IV-E. Variance Review Criteria

A. General Structures

The DRB may render a decision in favor of the applicant only upon establishing **all** of these criteria are met [§4469(a)]:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located; **and**
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property; **and**
3. That the unnecessary hardship has not been created by the applicant; **and**
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce

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access to renewable energy resources, nor be detrimental to the public welfare; **and**

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the town plan.

B. Renewable Energy Structures

The DRB may render a decision in favor of the applicant only upon establishing **all** of these criteria [§4469(b)]:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations; **and**
2. That the hardship was not created by the appellant; **and**
3. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable resources, nor be a detriment to the public welfare; **and**
4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulations and from the plan.

C. Variances to Development in the Flood Hazard Area District

Variances to the development standards in the Flood Hazard District shall be granted by the DRB only [§4424(2)]:

1. In accordance with the Act §§4469, 4424(2), Sub-article IV-E sections A and B of this bylaws, and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood Insurance Program regulations.
2. Upon a determination that during the base flood discharge, the variance will not result in increased flood levels.
3. Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Section V. Permits and Development Review Procedures

A. Zoning Permit

Applicability: No land development may be commenced without a zoning permit issued by the Zoning Administrator.

Applicant: All owners of the property on which the proposed land development will occur must be the applicant or a co-applicant for a zoning permit.

Application requirements: An application for a zoning permit shall be submitted to the Zoning Administrator along with the permit fee and all other approvals required by these regulations. An application for a zoning permit should contain the following:

1. A sketch plan, drawn to scale, which shows the following information in sufficient detail to determine whether the proposal is in conformance with these regulations. Where a site plan map has been submitted for review by the DRB a sketch plan is not necessary. A sketch plan must include:
 - a. The size, shape, and dimensions of the parcel, including existing and proposed property boundaries.
 - b. The location of major site features, including surface waters, wetlands, and floodplains.
 - c. The size, height, and location of all existing and proposed structures in exact relation to all property lines, roads, and major features listed in subsection (b).
 - d. Where locations of, and relationship between, property lines, roads, buildings, and other required information is in doubt, a recent land survey of the property may be required.

2. A written description including:
 - a. The name and address of the applicant(s).
 - b. The signature of the applicant(s).
 - c. The location of the proposed development.
 - d. The existing and intended use of all such structures and the land.
 - e. An identification of the district in which it is located.
 - f. A list of names and most recent mailing addresses of all abutting property owners within the same or neighboring communities as derived from the grand list;
 - g. Where a project requires state notification under of these bylaws, the appropriate report required by the subsection.
 - h. Any other information that the Zoning Administrator requires in order to ensure that the provisions of these regulations are met including any additional application requirements as required for a specific use.

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3. Permit applications in the Flood Hazard District shall, in addition to the information required above, include the following:
 - a. A sketch map showing the distance of all features of the proposed land development from the nearest flooding water body and from the nearest boundary of the Flood Hazard District.
 - b. All existing and proposed grade elevations.
 - c. The elevation, in relation to mean sea level, of the lowest floor, including the basement, of any new or substantially improved structures.
 - d. When applicable, the elevation to which any new or substantially improved structures will be flood-proofed.
 - e. Certification from a registered professional engineer or architect that the flood-proofed structure meets the flood-proofing criteria of these regulations.
 - f. All variance actions, including justification for their issuance.

Application deemed received: The Zoning Administrator shall, upon receipt, review the application to determine completeness. A complete application will include sufficient information for the Zoning Administrator to make a determination of compliance and any applicable fees.

1. If the Zoning Administrator finds the application incomplete, the Administrator shall within five days after receipt, notify the applicant in writing of all additional information or fees required.
2. If the Zoning Administrator finds the application complete, the Administrator shall record on the application the date on which the application was received.

Zoning Administrator Action: Within 30 days after the submission of a completed application and fees, the Zoning Administrator must act on the permit [§4448(d)]. Acting on the permit involves a documented action on the proposal. The Zoning Administrator may:

1. Determine that the application is exempt from these regulations based on section V-A.
2. Decide to approve or deny the permit based on the General Standards for Permitted Uses, the Specific Use Standards, and other criteria as authorized in the Act.
3. Determine that the proposed use requires DRB approval and refer the application to the clerk of the DRB for consideration.

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4. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day [§4448(d)].

General Standards for Permitted Uses: When determining the appropriateness of a proposed permitted use, the Zoning Administrator shall determine:

1. That the proposed development meets the setback & density requirements [Subsection IV-A(A)], frontage and access [Subsection IV-A(C)], and height limitations [Subsection IV-A(D)] as established for the district.
2. If appropriate, the resumption of an abandoned use [Subsection IV-A(E)] or the reconstruction of an unintentionally damaged or destroyed structure (provided all uses are conforming and structures are complying) [Subsection IV-A(F)].
3. If appropriate, that the development of an existing nonconforming lot is permissible [Subsection IV-A(G)].
4. If appropriate, that the use of an existing nonconforming structure is permissible [Subsection IV-A(H)].
5. If appropriate, that the use of an existing nonconforming use is permissible [Subsection IV-A(I)].
6. For uses not requiring site plan approval that proposed development meets parking and loading requirements of Subsection IV-B.

Specific use standards: Where specifically defined, a proposed permitted use must meet specific use standards established in these bylaws.

Decisions: A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449(a)(1)] and these regulations.

1. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is in conformance with the provisions of these regulations, the Zoning Administrator shall approve the zoning permit. If the permit is approved, the Zoning Administrator shall notify the applicant, in writing, of the approval stating the effective date of the permit.
2. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is not in conformance with the provisions of these regulations, the Zoning Administrator shall deny the zoning permit. If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons for denial and shall contain a statement of the period of time within which an appeal may be taken.

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3. No zoning permit shall be issued by the Zoning Administrator until all local permits and required approvals from the DRB, Selectboard, Health Officer, and/or any other local approval has been properly decided.

Effective Date: No permit shall take effect until the time for appeal has passed. In the event an appeal is filed, the permit shall not take effect until the DRB has heard the appeal and decided that the permit should be issued, whereupon it shall take effect after final adjudication of said appeal [§4449(a)(3)].

1. The effective date of permits which did not require DRB approval or a decision on appeal is 15 days from the date of issuance of the zoning permit.
2. The effective date of permits which required DRB approval or involved an appeal of a decision of the Zoning Administrator is 30 days from the decision of the DRB or 15 days from the issuance of the zoning permit, whichever date is latest.

Appeals: Appeals from the decisions of the Zoning Administrator may be made to the DRB, as per section VI(C) of these bylaws, within 15 days of the decision or act.

Permit Expiration: All development must be completed within a period of 24-months from the effective date of the permit unless the deadline is altered below. A permit in which the deadline has lapsed without completion shall be deemed expired and may be subject to enforcement action.

1. The DRB may set the expiration date of a permit beyond 24-months as a condition of approval for certain phased developments.
2. A one-year extension may be granted if active construction has continued for, but has not been completed within, the initial 24-month period. The Zoning Administrator, upon written request prior to the expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year without further review or hearings.
3. Reapplication for a new zoning permit, including all associated approvals, is required for incomplete development where the permit has expired. If appropriate, the Zoning Administrator may find the incomplete development in violation of these regulations and action may be taken.
4. Any zoning permit issued based on material inaccuracies or misrepresentations in an application or in any supporting documentation to an application shall be null and void; and any associated development activity commenced under such permit shall constitute a violation of these regulations subject to enforcement.
5. Unless expressly stated otherwise, all valid permits shall run with the land, valid for and binding upon any heir, assign, or successor whom gains an undivided interest in

the property.

6. A permit for a use which has been abandoned is not a valid permit.

Posting and Recording Requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

B. Conditional Uses

Applicability: A zoning permit for any use or structure that requires conditional use approval as defined per the district in Article II shall not be issued by the Zoning Administrator until the DRB grants such approval.

Purpose: The purpose of a conditional use is to extend the development options of all property owners within a particular zoning district without causing undue impact upon other property owners or violating the purpose of the districts as stated in Article II of these regulations.

Application Procedure: In addition to material presented for zoning permit [section V(A)], the applicant shall submit data to the DRB which shall include the following information presented in drawn form and accompanied by written text:

1. Two sets of site plans drawn to scale showing:
 - a. The lot, block, and section number of the property from the most recent municipal tax record.
 - b. Name and address of the owner of record and those of adjoining lands.
 - c. Name and address of person or firm preparing the map, scale of map, north arrow, and date of map preparation.
 - d. Legal property boundaries and lot acreage for the property.
 - e. Existing features, including contour lines, structures, vegetation and natural features, streets, utility easements, rights-of-way, existing structures and access points on adjacent properties, land use, zoning district boundaries, and deed restrictions.
 - f. Proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces, pedestrian walks, site grading, outdoors lighting, and landscaping.
 - g. The DRB may require site plans be prepared by a licensed engineer, surveyor, or architect.
2. A written text including:
 - a. Construction sequence and time schedule for completion of each phase of development.
 - b. A statement describing how the proposed development fits the

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purposes of the land use district in which it is located as described in
Hyde Park's land use plan and Article II of this bylaw.

- c. The expected impact on existing and planned community facilities.
 - d. Estimate of daily and peak hour traffic generation.
3. Any other information that the DRB requires to ensure that the provisions of these regulations are met.

Public Hearing: A public hearing after public notice shall be held by the DRB to determine whether the proposed use conforms to the general and specific standards for conditional uses in these regulations [§4464(a)(1)].

1. Public notice for the hearing to be held by the DRB shall be given by publication of the date, place, and purpose of such hearing in:
 - a. a newspaper of general circulation in the Town;
 - b. a mailing of such notice to the applicant; and
 - c. a posting of such notice in three or more public places within the municipality including;
 - i. the Town Clerks Office; and
 - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
 - d. written notification of such notice to the applicant and to the owners of all properties adjoining the subject to development, without regards to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
2. Public notice of a hearing by the DRB shall not be given less than fifteen (15) days prior to the date of the public hearing [§4464(a)(1)]
3. All hearings of regarding conditional use approval are open to the public. In any hearing there shall be an opportunity for each person wishing to achieve status as an interested person (as defined in Section VII) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons [§4461(b)].
4. Any hearing may be adjourned by the board from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing.

General Standards: When determining the appropriateness of a proposed conditional use, the

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DRB shall determine:

1. That the development or use will not result in an undue adverse effect on the general conditional use standards described under Subsection IV-C(A) [§4413(3)]:
 - a. The capacity of existing or planned community facilities.
 - b. The character of the area affected.
 - c. Traffic on roads and highways in the vicinity.
 - d. Bylaws now in effect.
 - e. Utilization of renewable energy resources.

Specific Use Standards: Where applicable, a proposal must meet the standards as established in section III of these bylaws.

Decisions: The DRB shall act to approve, approve with conditions, or disapprove any such requested conditional uses within forty-five (45) days after the date of the final public hearing held under this section; failure to do so within such period shall be deemed approval [§4464(b)(1)]. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions.

Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)]

Conditions of Approval: The DRB shall have the power to impose reasonable conditions and safeguards to ensure the safety and general welfare of surrounding properties when approving conditional use applications including [§4464(b)(2)]:

1. Increased lot size or yard dimensions.
2. Limiting lot coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property.
3. Controlling the location and number of vehicular access points to development to minimize traffic hazards.
4. Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the county forester, Natural Resource Conservation Service, district highway engineer, and other experts.
5. Requiring suitable landscaping or screening where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;
6. Limitations on the hours of operation or levels of daily truck traffic permissible.

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7. Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services;
8. Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations;
9. Any additional conditions and safeguards that the DRB deems necessary to implement the purposes of the Act, the municipal plan, or these zoning regulations; and
10. For development in the Flood Hazard Areas, such additional reasonable conditions as the DRB may deem necessary to implement the above measures, including a condition that all appropriate State and Federal permits be obtained.

Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per section VI(D) of these bylaws, within 30 days of the decision.

Permit issuance: The DRB shall forward its decision to the Zoning Administrator with instructions to issue or not issue the zoning permit.

Posting and Recording requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

C. Site Plan Approval

Applicability: In any district, no permit shall be issued by the Zoning Administrator until site plan approval is granted by the DRB. Unless exempted herein, all development requires site plan approval. [§4416]

Exemptions: No site plan approval shall be required for the following:

1. Single-family dwellings.
2. Two-family dwellings.
3. Accessory apartments.
4. Home occupations, businesses, and industries.
5. Accessory structures to residential uses.

Purpose: Site plan review is required in order to ensure that a project will be of high quality,

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have an attractive and functional site design, and that the overall building and site design is consistent with the purpose and character of the district within which it is located.

Application Procedure: In addition to material presented for zoning permit [section V(A)], the applicant shall submit data to the DRB which shall include the following information presented in drawn form and accompanied by written text:

1. Two sets of site plans drawn to scale showing:
 - a. The lot, block, and section number of the property from the most recent municipal tax record.
 - b. Name and address of the owner of record and those of adjoining lands.
 - c. Name and address of person or firm preparing the map, scale of map, north arrow, and date of map preparation.
 - d. Legal property boundaries and lot acreage for the property.
 - e. Existing features, including contour lines, structures, vegetation and natural features, streets, utility easements, rights-of-way, existing structures and access points on adjacent properties, land use, zoning district boundaries, and deed restrictions.
 - f. Proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces, pedestrian walks, site grading, exterior lighting, and landscaping.
 - g. The DRB may require site plans be prepared by a licensed engineer, surveyor, or architect.
2. A written text including:
 - a. Construction sequence and time schedule for completion of each phase of development. Plans for erosion control on site during construction.
 - b. Detailed specifications of planting and landscaping materials to be used, and plan for long term maintenance and replacement of plantings.
 - c. Cost estimates of all site improvements.
3. Any other information which the DRB requires to ensure that the provisions of these regulations are met.

Public Hearing: A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of referral by the Zoning Administrator of a complete application for site plan approval.

1. Public notice for the hearing to be held by the DRB shall be given by publication of the date, place, and purpose of such hearing in [§4464(a)(2)]:
 - a. a mailing of such notice to the applicant; and

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- b. a posting of such notice in three or more public places within the municipality.
 - c. written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regards to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
2. The public notice of the hearing shall not be given less than 7 days prior to the date of the hearing [§4464(a)(2)].
 3. All hearings of regarding conditional use approval are open to the public. In any hearing there shall be an opportunity for each person wishing to achieve status as an interested person (as defined in Section VII) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons [§4461(b)].
 4. Any hearing may be adjourned by the board from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing.

General Standards: In reviewing a site plan, the DRB shall consider the following standards and conditions in reviewing the site plan as described in Subsection IV-D(A) and (B) [§4416]:

1. Exterior lighting requirements.
2. Adequacy of landscaping and screening.
3. Adequacy of parking, and loading facilities as defined under Subsection IV-B.

Specific Use Standards: Where applicable, a proposal must meet the requirements identified in Section III of these bylaws.

Decisions: The DRB shall act to approve, approve with conditions, or disapprove any such requested site plan within forty-five (45) days after the date of the final public hearing held under this section; failure to do so within such period shall be deemed approval [§4464(b)(1)]. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions.

Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)]

Conditions of Approval: The DRB shall have the power to impose reasonable conditions

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and safeguards to ensure the safety and general welfare only with respect to the adequacy of traffic access and safety, circulation and parking, landscaping and screening, and the protection of the utilization of renewable energy resources when approving site plan applications including, but not limited to:

1. The DRB can require shared access to adjoining properties or may limit access to the property to a side street or secondary road.
2. Where only a portion of a property is proposed for development, the DRB can require an applicant to submit a master plan showing how future development of the remainder of the property will be accessed and serviced.
3. The DRB can require screening of parking from adjacent uses and from roadways in the vicinity.
4. The DRB can require additional site design to mitigate storm water runoff and erosion control.
5. The DRB can require provisions for pedestrian trails and walkways along waterways or other natural features.
6. The DRB has the power to limit the size and location of any parking or loading areas.
7. The DRB can require the cost of planting to equal up to 3 percent of the estimated total cost of the development.
8. The owner or developer can be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all improvements required pursuant to this section. The amount and form of such surety shall be subject to the approval of the Hyde Park Selectboard previous to final Site Plan Approval.

Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per section VI(D) of these bylaws, within 30 days of the decision.

Permit issuance: The DRB shall forward its decision to the Zoning Administrator with instructions to issue or not issue the zoning permit.

Posting and Recording requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

D. Variance

Applicability: An applicant may receive relief from a provision of these zoning bylaws through the granting of a variance by the DRB. Variances may be granted for general structures, renewable energy structures, and to development standards for development in the flood hazard area - under separate criteria. Variances to allow uses that are not permitted or conditionally permitted in the applicable district are not permissible. [§4469]

Purpose: The purpose of a variance is to address a hardship, related to the physical characteristics of a particular lot, which hampers the owner from enjoying the same property rights accorded to others in the same zoning district. An applicant cannot request rights, which have not been accorded to all others in the same district. Therefore, in no case shall the DRB grant a variance for a use, which is not permitted or conditionally permitted in the applicable district. Because a variance results in a deviation from the Town plan and bylaws, variances are allowed only in narrow circumstances.

Application: Variances are treated as appeals [§§4465, 4466], therefore a notice of appeal for a variance shall be filed with the clerk of the DRB, or Town Clerk if no such secretary has been elected, in writing and include:

1. The name and address of the appellant.
2. A brief description of the property with respect to which the variance is requested.
3. A reference to applicable bylaws provisions for which relief is requested.
4. The nature of the relief requested by the appellant.
5. The alleged grounds why such relief is believed proper under the circumstances (i.e. how the proposal meets all requirements of this section).

Public Hearing: Following the receipt of the notice of appeal for a variance, the DRB shall set the date and place for a public hearing which shall be within 60 days of the filing of the notice [§4468].

1. Public notice for the hearing to be held by the DRB shall be given by publication of the date, place, and purpose of such hearing in [§§4464, 4468]:
 - a. a newspaper of general circulation in the Town;
 - b. a mailing of such notice to the applicant; and
 - c. a posting of such notice in three or more public places within the municipality including:
 - i. the Town Clerks Office; and
 - ii. Within view from the public right of way most nearly adjacent to the property for which the application is

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made; and

- d. written notification of such notice to the applicant and to the owners of all properties adjoining the subject to development, without regards to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
2. The public notice of the appeal for a variance shall not be given less than 15 days prior to the date of the hearing [§4468].
3. All hearings of an appeal for a variance are open to the public. In any hearing there shall be an opportunity for each person wishing to achieve status as an interested person (as defined in Section VII) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons [§4461(b)].
4. Any hearing may be adjourned by the board from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing.

General Standards: There are two sets of criteria established by the Act [§4469] with regards to variances – general structures and renewable energy structures. Additional criteria are required for variance requests in the flood hazard area.

1. General structures. The DRB may render a decision in favor of the applicant only upon establishing **all** the facts, identified in Subsection IV-E(A) of these bylaws, in its decision.
2. Renewable energy structures. For a structure which is primarily a renewable energy resource structure, the DRB may render a decision in favor of the applicant only upon establishing **all** the facts, identified in Subsection IV-E(B) of these bylaws, in its decision.
3. Flood hazard area. For general or renewable energy structures in flood hazard area, the DRB may render a decision in favor of the applicant only upon establishing **all** the facts identified in Subsection IV-E(A) or IV-E(B), as applicable, **and** the additional requirements in Subsection IV-E(C) of these bylaws, in its decision.

Decision: Upon completion of a hearing, the DRB shall render its decision in the form of written findings of fact and conclusions of law within 45 days. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed

approval [§4464(b)(1)].

1. Copies of the DRB decision shall be sent to the applicant (by certified mail), every person or party who was heard at the hearing, the Zoning Administrator, and the Town Clerk for filing as part of the public record.

Conditions of Approval: In rendering a decision in favor of an applicant for a variance, the DRB may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the Act and/or the Town of Hyde Park Municipal Development Plan as most recently adopted [§4469(c)]. Such conditions may include those in section V(B) of these bylaws.

1. For any variance issued within the Flood Hazard Area Overlay District, the permit shall state: “This development is not in conformance with the Flood Hazard Area bylaws established by the Town of Hyde Park to protect the health, safety and welfare of the occupants and/or property. This development will be maintained at the risk of the owner. The issuance of this variance to develop in the flood hazard area will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and may increase risks to life and property in the event of a flood.”

Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per section VI(D) of these bylaws, within 30 days of the decision.

Posting and Recording requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

Section VI. Administration, Appeals, and Enforcement

A. Zoning Administrator

1. These bylaws shall be administered by the Zoning Administrator [§4448(a)].
2. The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a three-year term. The Zoning Administrator may be removed from office for just cause by the Selectboard after consultation with the Planning Commission [§4448(a)].
3. In the absence or disability of the Zoning Administrator, an acting Zoning Administrator shall be appointed and empowered in the same manner as provided above [§4448(b)].
4. The Zoning Administrator may hold any other office in the municipality except for membership on the DRB. Salary for the Zoning Administrator shall be paid out of the General Fund in an amount and schedule established by the Selectboard [§4448(a)].
5. The Zoning Administrator shall manage and enforce these bylaws literally and shall not have the power to permit any development that is not in conformance with these bylaws [§4448(a)].
6. The Zoning Administrator shall have the power to hear and decide applications for zoning permits under section V(A) of these bylaws [§4449(a)(1)].
7. The Zoning Administrator shall investigate complaints and has the power to pursue violations of these bylaws through procedures set forth under section VI(E) of these bylaws [§4452].
8. The Zoning Administrator should provide forms required to obtain any municipal permit or other municipal authorization required under this bylaw or any other regulations or ordinances that relate to the regulation of land development within the Town of Hyde Park [§4448(c)].
9. The Zoning Administrator should inform any person applying for a zoning permit that the person should contact the regional permit specialist in order to identify, apply for, and obtain relevant state permits [§4448(c)].
10. The Zoning Administrator shall meet the recording requirements of section VI(H) of these bylaws [§4449(b-c)].

B. Development Review Board

1. The Development Review Board (hereinafter referred to as “the DRB”) shall not consist of less than 5 nor more than 9 members whose members shall be appointed by the Selectboard for specified terms. The Board may consist of the members of the Planning Commission. Vacancies shall also be filled by appointment of the Selectboard for unexpired terms and upon the expiration of terms. The Selectboard upon written charges and after a public hearing may remove any member of the DRB for just cause. [§4460(b-c)]
2. The DRB shall have all powers set forth in the Act to administer the provisions of these regulations, including, but not limited to, the power to:
 - a. Consider applications for conditional use approval under section V(B) of these bylaws [§4460(e)(4)].
 - b. Consider applications for site plan approval under section V(C) of these bylaws [§4460(e)(7)].
 - c. Consider requests for a variance under section V(D) of these bylaws [§4464(e)(11)].
 - d. Consider decisions of the Zoning Administrator upon appeal under section VI(C) of these bylaws [§4464(e)(10)].
 - e. Resolve any uncertainties on the Zoning Map under section II(C) [§4464(e)(10)].
3. The DRB shall adopt rules of procedure and perform its functions in conformance with the Act [§4461] and Vermont’s Open Meeting Law [1 V.S.A. §§310-314].
4. The DRB shall meet all relevant recording requirements of section VI(H) of these bylaws.

C. Appeals- Decisions of the Zoning Administrator

Applicability: The applicant or an interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the DRB within 15 days of the act or decision [§4465].

Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4466]:

1. The name and address of the appellant.
2. A brief description of the decision or act with respect to which the appeal is taken.
3. A reference to applicable bylaws provisions.
4. The relief requested by the appellant.

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5. The alleged grounds why such relief is believed proper under the circumstances

Rejection of Notice of Appeal: The DRB may reject an appeal without hearing and render a decision and findings of fact within 10 days of the filing of the notice of appeal, if the DRB considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant [§4470(a)].

Public Hearing: Within 60 days of receiving a notice of appeal, the DRB shall hold a public hearing. [§4468]

1. Public notice for any hearing shall be given by publication of the date, place, and purpose of such hearing in [§§4464, 4468]:
 - a. a newspaper of general circulation in the Town;
 - b. a mailing of such notice to the appellant;
 - c. a posting of such notice in three or more public places within the municipality including:
 - i. the Town Clerks Office; and
 - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
 - d. written notification of such notice to the applicant and to the owners of all properties adjoining the subject to development, without regards to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
2. The public notice of the appeal shall not be given less than 15 days prior to the date of the hearing [§4464(a)(1)].
3. Any interested person may appear and be heard in person or be represented by agent at the public hearing [§4468].
4. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The appellant is required to bear the cost of the public warning including administrative costs.
5. All hearings of an appeal shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A.

§810.

6. In most cases the Zoning Administrator is the defendant in the appeal before the DRB. In those cases the Zoning Administrator must not act as a staff member during the hearing or deliberations.
7. Any hearing may be adjourned by the DRB from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing [§§4468, 4464(b)(1)].

Decision: Upon completion of a hearing, the DRB shall render its decision in the form of written findings of fact and conclusions of law within 45 days. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval [§4464(b)(1)].

1. Copies of the DRB decision shall be sent to the applicant (by certified mail), every person or party who was heard at the hearing, the Zoning Administrator, and the Town Clerk for filing as part of the public record.

Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per section VI(D) of these bylaws, within 30 days of the decision.

Posting and Recording requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

D. Appeals to Environmental Court

Applicability: An interested person who has participated in the local regulatory proceeding under these bylaws may appeal a decision of the DRB to the Environmental Court [§4471]. Participation in a 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. Appeals to Environmental Court must be taken in accordance with the provisions of V.R.C.P. 76a and V.R.A.P. 3 and 4.

Initiation of Appeal. Within 30 days following the date of decision rendered by the DRB, notice of the appeal shall be filed by certified mail with fees to the environmental court and mailing a copy to the municipal clerk or Zoning Administrator, if so designated, who shall supply a list of interested persons to the appellant within five (5) working days. Upon receipt of the list of list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene [§4471(c)].

Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4471]:

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1. The name of the party appealing.
2. What board made the decision being appealed.
3. The nature of the decision under appeal.
4. A reference to the specific provisions of the bylaw.
5. The relief requested by the appellant.
6. The signature of the appellant or attorney.

Filing Fee: The filing fee is established by V.R.C.P. 76 (e). At the time of the development of these bylaws, the fee for filing an appeal with the Environmental Court is \$150.

E. Violations and Enforcement

Applicability: The commencement or continuation of any land development, which is not in conformance with the provisions of these bylaws, shall constitute a violation. Violations of these regulations shall be prosecuted in accordance with the Act [§§4451, 4452].

Identification and Investigation of Violations: The Zoning Administrator is required by law to enforce all violations of these bylaws [§4448(a)]. Whether through direct observation, written or oral complaint, site visit, or notification of violation from the landowner, the discovery of an alleged violation must be pursued by the Zoning Administrator.

1. Any person may file a written complaint with the Zoning Administrator if it is believed that a violation of these bylaws has occurred. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate within a reasonable time, and take action as appropriate in accordance with these regulations.
2. The Zoning Administrator may not enter upon any private property, for purposes of inspection and investigation, except by permission of the landowner or per a search warrant duly issued by a court [13 V.S.A. §4701].

Formal Notice of Violation: No action may be brought under this section unless the alleged offender has had at least 7 working days notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation [§4451(a)].

1. The warning notice shall state:
 - a. That a violation exists;
 - b. That the alleged offender has an opportunity to cure the violation

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within the seven (7) day period;

- c. That the alleged offender has the right to appeal the notice of violation to the DRB within fifteen (15) days from the date the notice was sent; and
 - d. That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) day period.
2. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the bylaw after the seven (7) day notice period and within the next succeeding twelve (12) months.

Informal Resolution of Violations: Where a landowner is cooperating with the Zoning Administrator in finding a cure for the violation, the Zoning Administrator has the authority to enter written agreements to resolve violations. The Zoning Administrator is under no obligation to enter any agreement - informal resolutions are not required under statute and are provided by the Town of Hyde Park as an amicable means of resolving violations.

1. At minimum, any agreement must:
 - a. Be in writing and be signed by both the violator and administrator.
 - b. Must establish a timeline for curing the violation.
 - c. Give written authorization that will allow the Zoning Administrator to inspect the premises to ensure compliance upon completion or by the agreed upon date of completion.
2. The Zoning Administrator is prevented from making any agreement allowing a violation to continue, even if the violation is minimal, inadvertent, and/or the violator agrees to pay a fine [§4448(a)].

Enforcement Action: Where a property owner fails to remedy a violation within the 7-day period or the timetable agreed to under an informal resolution, the Zoning Administrator, in the name of the municipality, shall bring appropriate action to enforce the provisions of these bylaws [§4452]. The appropriate action is typically an action in either Environmental or Superior Court although other actions are available. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454] including the following:

1. An enforcement action relating to any municipal land use permit must be instituted within 10 years of the date the alleged violation first occurred and not thereafter.
 - a. The statute of limitations applies to landowners who did not create the violation. This means that no statute of limitations will protect a person who violates the bylaws – only subsequent purchasers of that property.
 - b. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is

instituted.

2. No action, injunction, or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land use records of the municipality as required by the Act [§4454(b)].
3. Nothing in the section shall prevent any action, injunction, or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to a municipality's authority under Title 18 relating to the abatement and removal of a public health risk or hazard [§4454(c)].

Fines: Any person who violates these bylaws shall be fined not more than the amount permitted under the Act [§4451(b)], which at the time of development of these bylaws is \$100. Each day that a violation is continued after the initial seven (7) day notice period shall constitute a separate offense. All fines imposed and collected shall be paid to the Town of Hyde Park.

Posting and Recording requirements: The Zoning Administrator shall meet the posting and recording requirements of section VI(H).

E. Fees

The Selectboard may prescribe reasonable fees to be charged with respect to the administration of these regulations and for the administration of development reviews. These fees may include the costs of posting and publishing notices and holding public hearings and the cost of conducting periodic inspections during the installation of public improvements. These fees may be payable by the applicant upon submission of the application or prior to issuance of the permit [§4440(b)].

The Selectboard may set reasonable fees for filing of notices of appeal and for other acts as it deems proper, the payment of which shall be a condition for filing the notice [§4440(c)].

The fee schedule may include a process and provisions that require applicants to pay for reasonable costs of an independent technical review of their applications [§4440(d)].

An applicant may be charged the cost of the recording fees as required by law [§4449(c)(2)].

The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

G. Posting and Recording Requirements

Posting: Within 3 days following the issuance of a zoning permit or decision by the DRB,

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the Zoning Administrator shall post a copy of the permit or approval in the Town Clerk's Office until the expiration of the appeal period [§4449(b)(2)]. Notice must also be posted within view of the public right of way most nearly adjacent to the subject property until the time for appeals has passed. Each posting shall contain a statement of the period of time within which an appeal may be taken [§4449(b)] and a description as to where a full description of the project and approval can be found.

Recording with the Listers: Within three (3) days following the issuance of a zoning permit the Zoning Administrator shall deliver a copy of the permit to the Town Listers [§4449(b)(1)].

Recording Permits with the Town Clerk: Following the appeal period but within thirty (30) days after the issuance of any of the items listed below, the Zoning Administrator shall deliver the original, or a legible copy, of the issuance to the Town Clerk for recording in the municipal land records [§4449(c)(1)].

1. The following issuances are covered in this subsection:
 - a. Letters approving or denying exemptions under section V(A);
 - b. Zoning permits;
 - c. Notices of violation; or
 - d. Notices of denial of an application. [§4449(c)(1)(A)]
2. Temporary permits issued under these bylaws are not required to be recorded [24 VSA §1154(b)].
3. Any issuance delivered for recording shall list:
 - a. As grantor, the owner of record title to the property at the time of issuance;
 - b. As grantee, the municipality issuing the permit, certificate, or notice – i.e. *the Town of Hyde Park*;
 - c. The municipal office where the original, or a true, legible copy of the issuance may be examined;
 - d. Whether an appeal of such issuance was taken; and
 - e. The tax map lot number or other description identifying the lot [24 V.S.A. §1154(c)].

Recording DRB Minutes and Findings with the Town Clerk: The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions. For each case heard and decided, the DRB shall make written findings of fact and conclusions of law that shall be maintained in the Town Clerk's Office together with all minutes and other records of the DRB [§4461(a)].

Zoning Administrator records: The Zoning Administrator shall maintain a record of development including:

1. A file of a copy of any municipal permits, which have been submitted to the Town

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Clerk for recording in the land records, in a location where all municipal land use permits shall be kept [§4449(c)(1)(B)].

2. Copies of all evidence presented, public notices, hearing minutes, findings of fact and other material collected by the Zoning Administrator or DRB in the process of reviewing an application including any letters from state agencies as a part of section VI(E) of these bylaws.
3. All temporary permits issued or denied under these bylaws. The Zoning Administrator must keep a copy of all temporary permits for a period of one year following the expiration of said permit.
4. For any permits issued within the Flood Hazard Area Overlay District:
 - a. A record of all permits issued for development in areas of special flood hazard;
 - b. A copy of the elevation certificate;
 - c. All floodproofing certifications required under this regulation; and
 - d. All variance actions, including justification for their issuance.

Section VII. Definitions

For the purpose of these bylaws, the terms below shall have the following meanings unless a different meaning clearly appears from the context:

1. AAP is abbreviation for Accepted Agricultural Practices as defined by the Commissioner of Agriculture.
2. Acre means a parcel of land with a surface area of 43,560 square feet.
3. Act means the Vermont Planning and Development Act 24 V.S.A., Chapter 117.
4. Adjoining Landowner means any person owning land contiguous to the proposed land development including land separated by a road or road right of way.
5. Administrator shall mean the Federal Insurance Administrator located at: Federal Management Agency, Federal Insurance Administration, 15 New Chardon Street, Boston, Massachusetts, 02114 (617) 223-2616.
6. Area of special flood hazard is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FBFM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.
7. Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (100 year flood).
8. BMP is abbreviation for Best Management Practices as defined by the Commissioner of Agriculture.
9. Building means a 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.
10. Business & personal services and offices mean establishments providing primarily services (not goods or manufacturing) to individuals, institutions, farms, industries and other businesses where such establishments do not qualify as home businesses or industries.
11. Commercial uses include all businesses, stores, warehouses, offices, banks, and similar uses intended for the promotion and conduction of commerce.
12. DRB is abbreviation for the Town of Hyde Park Development Review Board.

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13. Driveways are a minor travel way serving up to three adjoining parcels which provides vehicular access from an adjoining road or street to a parking space garage or other structure.
14. du is abbreviation for dwelling unit.
15. Dwelling unit (du)- one room or rooms, connected together, constituting a separate independent housekeeping establishment for owner occupancy, rental, or lease, and physically containing an independent cooking, bathroom/toilet facility, and sleeping facilities.
16. Excavation and fill operations involve any breaking of ground and extraction or movement of earth or rock, or any alternation of existing drainage patterns which substantially affects adjacent properties. Accepted agricultural practices, ground care, gardening, or excavating in cemeteries shall be exempt.
17. Existing structure means any structure in existence or under construction prior to the effective date of these bylaws.
18. Farming means (10 V.S.A. §6001(22)):
 - a. the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural or orchard crops; or
 - b. the raising, feeding, or management of livestock, poultry, fish, or bees; or
 - c. the operation of a greenhouse; or
 - d. the production of maple syrup; or
 - e. the on-site storage, preparation and sale of agricultural products or wastes produced on the farm; or
 - f. the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
 - g. the raising, feeding, or management, of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.
19. Farm structure is a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with farming but excluding a dwelling for human habitation (24 V.S.A. §4413(d)).
20. EBFM is abbreviation for Flood Boundary and Floodway Map.
21. FEMA is abbreviation for Federal Emergency Management Agency.
22. EIRM is abbreviation for Flood Insurance Rate Map.
23. Flood Boundary and Floodway Map (FBFM) means an official map of a community, issued

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by the Administrator, where the boundaries of the flood, and mudslide (i.e. mudflow) -
related erosion areas having special hazards have been designated as Zones A, M, and/or E.

24. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
25. Flood insurance study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
26. Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.
27. Floodway means 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 a designated height.
28. Frontage is the length of the front lot line for a single parcel of land as measured from the public right-of-way or private street or easement that it borders.
29. Home Businesses and Industries are accessory uses to residential properties that are clearly incidental and secondary to the residential use. Home businesses and industries shall be carried on within the principal structure or accessory structures. A home business or industry cannot occupy more than 25% of the entire floor area of the primary (residential) structure. The home business or industry shall be carried on by residents of the dwelling unit. Up to three additional employees who are not residents of the dwelling unit are permitted.
30. Home Occupations are accessory uses to residential properties that are clearly incidental and secondary to the residential use. Home occupations are conducted wholly within the principal structure and do not occupy more than 25% of the entire floor area of the structure. The home occupations shall be carried on by residents of the dwelling unit. One additional employee who is not residents of the dwelling unit is permitted.
31. Industrial uses are all uses that involve a process whereby the nature, size, or shape of articles or raw materials are changed, or where articles are assembled and packaged and/or warehoused.
32. Interested Person means anyone meeting the definition of the term as set forth in the Act [§4465(b)]. The definition includes the following:
 - a. A person owning title or property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by law who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under

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- the particular circumstances of the case.
- b. The municipality in which the plan or a bylaw of which is at issue in an appeal brought under this chapter or any municipality which adjoins such municipality.
 - c. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under the bylaw, 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 the municipality.
 - d. Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (b) above who, by signed petition to the DRB, the bylaws of which is at issue in any appeal brought under the Act, allege that the relief requested by a person under the Act, if granted will not be in accordance with the policies, purposes or terms of the plan or bylaw of that municipality. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
 - e. Any department and administrative subdivision of the state owning property or any interest therein within a municipality listed in subdivision (b) of this subsection, and the agency of commerce and community development.
33. Land Development means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land or extension of the use of land.
34. Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicle 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 Section 60.3 of the Federal Register.
35. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
36. NFIP is abbreviation for National Flood Insurance Program.
37. Permit means a zoning permit issued by the Zoning Administrator in compliance with these

regulations.

38. Primitive camp is a recreational dwelling unit as defined under state water and wastewater rules. These dwellings must be on their own individual lots with no interior plumbing consisting of more than a sink with water that is used for no more than three consecutive weeks per year and no more than sixty days per year.
39. Private road means a minor travel way under private ownership serving more than three adjoining parcels which provides vehicular access from an adjoining road to a parcel.
40. Public and civic facilities includes any meeting hall, municipal buildings or facilities, places of assembly, museum, art gallery, library, school, place of worship, cemetery, civic and fraternal organization, or other type of establishment which is not operated primarily for profit.
41. Public Highways means any state highway and any class 1, 2, 3, or 4 town highway.
42. Public water systems means any system, or combination of systems owned or controlled by a person, which provides piped drinking water to the public and which:
 - (A) has at least 15 service connections; or
 - (B) serves an average of at least 25 individuals for at least 60 days a year.
43. PUD is abbreviation for Planned Unit Development.
44. Seasonal means habitation or use is limited to less than 6 months of any calendar year.
45. Single Family Residential Structure means a structure designed for or occupied by one family solely as a home.
46. Structure means an assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence.
47. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damaged occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.
48. Town means the Town of Hyde Park.
49. V.S.A. is abbreviation for Vermont Statutes Annotated.

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50. WHPA is abbreviation for Well Head Protection Area.
51. Zoning Administrator shall mean the administrative officer, or the assistant administrative officer appointed in accordance with the provisions of Section VI(A) of these bylaws.