

**TOWN OF PEACHAM, VERMONT ZONING  
AND FLOOD HAZARD REGULATIONS**

**Adopted**

Amendments to these Zoning Regulations were funded in part by a Bylaw Modernization Grant administered by the Vermont Department of Housing and Community Development.

|  |    |
|--|----|
| ARTICLE 1: LEGAL FRAMEWORK .....   | 5  |
| Section 101: Title.....  | 5  |
| Section 103: Purpose.....  | 5  |
| Section 104: Application.....  | 6  |
| ARTICLE 2: ZONING DISTRICTS AND ZONING MAP .....                             | 10 |
| Section 201: Establishment of Zoning Districts .....                         | 10 |
| Section 202: Zoning Map.....   | 10 |
| Section 203: Interpretation of Zoning District Boundaries.....               | 10 |
| ARTICLE 3: ZONING DISTRICTS .....  | 12 |
| Section 301 .....  | 12 |
| Section 302: Rural District (RD) .....                                       | 12 |
| Section 303: Village District (VD) .....                                     | 13 |
| Section 304: Shoreland One (SL).....   | 14 |
| Section 305: Shoreland Two (SL2).....  | 15 |
| Section 306: Agricultural Overlay (AO).....                                  | 16 |
| Section 307: Well Head Protection District Overlay (WH).....                 | 18 |
| ARTICLE 4: GENERAL PROVISIONS.....   | 19 |
| Section 401: Shoreland Vegetation .....                                      | 19 |
| Section 402: Existing Small Lots .....                                       | 19 |
| Section 403: Access To Public Roads or Waters.....                           | 19 |
| Section 404: Protection of Home Occupations.....                             | 20 |
| Section 405: Farm Structures and Practices.....                              | 20 |
| Section 406: Temporary Uses and Structures .....                             | 20 |
| Section 407: On Site Sewage Disposal .....                                   | 20 |
| Section 408: Lots in Two Zoning Districts or Lots in Two or More Towns ..... | 21 |
| Section 409: Projections into Required Yards .....                           | 21 |
| Section 410: Reduction of Lot Area .....                                     | 21 |
| Section 411: Required Area or Yards .....                                    | 21 |
| Section 412: Yards on Corner Lots .....                                      | 21 |
| Section 413: Limitations .....   | 21 |
| Section 414: Alterations and Adjustments.....                                | 22 |
| Section 416: Maximum Building Height.....                                    | 22 |
| Section 417: Subdivision of Land .....                                       | 23 |
| Section 418: Accessory Dwelling Units .....                                  | 23 |

|   |    |
|---|----|
| Section 419: Recreational Vehicles.....   | 24 |
| Section 420: Notice Prior to Construction Required.....   | 24 |
| ARTICLE 5: FLOOD HAZARD REGULATIONS.....  | 25 |
| Section 501: Statutory Authorization and Effect.....  | 25 |
| <u>Precedence of Zoning Regulations</u> The provisions of these flood hazard Zoning Regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions of this Article 5 shall take precedence. .... | 25 |
| Section 502: Warning of Disclaimer of Liability .....   | 25 |
| Section 503: Lands to Which These Regulations Apply .....   | 25 |
| Section 504: Summary Table: Development Review in Hazard Areas .....  | 26 |
| Section 505: Development Review in Hazard Areas.....  | 27 |
| Section 506: Development Standards .....  | 29 |
| Section 507: Administration .....   | 31 |
| Section 508: Certificate of Occupancy .....   | 32 |
| Section 509: Enforcement and Penalties.....   | 32 |
| Article 6: Definitions for Flood Hazard Regulations.....  | 34 |
| ARTICLE 7: NON-CONFORMING USES AND STRUCTURES.....  | 38 |
| Section 701: Non-Conforming Uses.....   | 38 |
| Section 702: Non-Conforming Structures .....  | 38 |
| ARTICLE 8: SPECIAL PROVISIONS.....  | 40 |
| Section 801: Site Plan Review.....  | 40 |
| Section 802: Conditional Use .....  | 40 |
| ARTICLE 9: PLANNED UNIT DEVELOPMENT.....  | 46 |
| Section 901: Planned Unit Development.....  | 46 |
| ARTICLE 10: ADMINISTRATION AND ENFORCEMENT.....   | 47 |
| Section 1001: Zoning Administrator .....  | 47 |
| Section 1002: Zoning Permit.....  | 47 |
| Section 1003: Violations.....   | 49 |
| Section 1004: Development Review Board .....  | 49 |
| Section 1006: Powers and Duties of the Planning Commission.....   | 49 |
| Section 1007: Appeals .....   | 50 |
| Section 1008: Public Hearings.....  | 52 |
| ARTICLE 11: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE.....   | 54 |
| Section 1101: Amendments .....  | 54 |

|   |    |
|---|----|
| Section 1103: Adoption of Zoning Regulations and Effective Date ..... | 54 |
| Section 1104: Separability .....                                      | 54 |
| Section 1105: Repeal .....  | 54 |
| ARTICLE 12: DEFINITIONS.....  | 55 |

## **ARTICLE 1: LEGAL FRAMEWORK**

### **Section 101: Title**

These are the Town of Peacham Land Use and Development Regulations and constitute the town's zoning and flood hazard regulations.

### **Section 102: Authority**

The town of Peacham adopted these regulations under the authority of the *Vermont Municipal and Regional Planning and Development Act*, 24 VSA Chapter 117, and 10 VSA Chapter 32.

### **Section 103: Purpose**

These regulations implement the goals and policies of the Peacham Town Plan and the *Vermont Municipal and Regional Planning and Development Act* as most recently amended. They are intended to:

- (A) Preserve the historic villages and the rural working landscapes in accordance with the 2021 Peacham town plan.
- (B) Promote housing choice, affordability and quality in order to sustain a diverse population and conform to equal treatment and fair housing laws;
- (C) Enhance recreational opportunities and bicycle and pedestrian facilities;
- (D) Provide for orderly and coordinated development;
- (E) Facilitate the adequate and efficient provision of public services and facilities;
- (F) Ensure that land use and development will not adversely impact public health, safety and welfare;
- (G) Ensure that land use and development will not adversely impact the reasonable use and enjoyment of adjoining property;
- (H) Ensure that there will be safe and adequate vehicular, pedestrian, cyclist and emergency access to and within development sites;
- (I) Ensure that development sites, structures and infrastructure are built and maintained in a safe and adequate condition;
- (J) Establish sound development and engineering standards that result in well-constructed projects that minimize their environmental and climate impacts, contribute positively to community character, and do not burden future landowners or the municipality with unreasonable costs to maintain or repair;
- (K) Protect scenic, historic and cultural resources;
- (L) Maintain the character and appearance of Peacham; and
- (M) Protect environmental quality and important natural resources including surface waters,

wetlands, floodplains, riparian buffers, priority forest blocks and significant wildlife habitat.

#### **Section 104: Application**

Unless specifically exempted in Sub-chapter 104, all land development within the Town of Peacham requires a zoning permit or subdivision approval issued in accordance with these regulations. Land development means:

- (1) The division of a parcel into two or more parcels, or any other change in the location of lot lines;
- (2) The construction, reconstruction, demolition, structural alteration, conversion, relocation or enlargement of any structure;
- (3) Mining, excavating or filling of land; or
- (4) Any change in, or extension of, the use of land or a structure

#### **Section 105 Exempt Land Use and Development Activities.**

Landowners do not need to obtain a zoning permit for:

- (1) **Emergency repair and stabilization** of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the damaged structure from the elements. Landowners must obtain a zoning permit for repair or reconstruction beyond the minimum necessary to stabilize and secure the structure.
- (2) **Normal maintenance and repair** of:
  - (a) An existing structure.
  - (b) Sidewalks and walkways, including replacement or reconstruction within the same footprint as the original.
- (3) **Demolition** of a fence or an accessory structure with a footprint of 200 square feet or less.
- (4) **Interior alterations** that do not increase the area occupied by a non-residential use.
- (5) **Well and septic system** installation, maintenance, repair and replacement (a state Wastewater System and Potable Water Supply Permit may be required, contact the state permit specialist at the Regional Office of the Vermont Department of Environmental Conservation);
- (6) **Pre-development site work** consisting of the minimum amount of land clearing and improvement necessary to access undeveloped land for the purposes of completing the site design and engineering work (such as land surveying and soil testing) needed to apply for land development under these regulations.
- (7) **Pond construction or modification** that will:
  - (a) Have a surface area of not more than 10,000 square feet or 10% of the lot area, whichever is less;
  - (b) Have a maximum depth of not more than 10 feet;
  - (c) Meet applicable setback requirements for the zoning district;
  - (d) Not involve damming or otherwise altering a natural water course or body;
  - (d) Not affect existing drainage patterns on adjacent lots or public rights-of-way; and

- (f) Not be located within a wetland, wetland buffer, riparian buffer, or flood hazard area.
- (8) **Fuel tanks** (above or below ground) on single- or two-unit residential property that:
- (a) Hold not more than 1,000 gallons of fuel for on-site use;
  - (b) Meet applicable setback requirements for the zoning district; and
  - (c) Are sited, installed and secured in accordance with state and federal regulations.
- (9) **Mechanical equipment** on single- or two-unit residential property (such as ground-mounted HVAC systems or back-up generators) that:
- (a) Have a footprint or are placed on a pad that does not exceed 200 square feet;
  - (b) Meet applicable setback and lot coverage requirements for the zoning district; and
  - (c) Are sited, installed, and secured in accordance with state and federal requirements.
- (10) **Swimming pools** on single- or two-unit residential property that:
- (a) Do not exceed a horizontal width of 20 feet in any dimension or a depth of 5 feet;
  - (b) Meet applicable setback and lot coverage requirements for the zoning district; and
  - (c) Are installed and secured to prevent unauthorized access.
- (11) **Unroofed patios or decks** on single- or two-unit residential property that:(
- (a) Have a footprint that does not exceed 200 square feet; and
  - (b) Meet applicable setback and lot coverage requirements for the zoning district.
- (12) **Accessibility structures** such as ramps, entry stairs or walkways on single- or two-unit residential property that do not:
- (a) Exceed 6 feet in width;
  - (b) Extend into or obstruct a public right-of-way;
  - (c) Interfere with corner visibility or sight distance for vehicular traffic; or
  - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way.
- (13) **Accessory structures** on single- or two-unit residential property that:
- (a) Have a footprint that does not exceed 200 square feet;
  - (b) Are not more than 15 feet tall;
  - (c) Meet applicable setback and lot coverage requirements for the zoning district (also see Subsection 3003.B); and
  - (d) Are not used as a dwelling or lodging unit.
- (14) **Outdoor light fixtures** on single- or two-unit residential property that:
- (a) Have an initial output that does not exceed 2,000 lumens; and
  - (b) Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.
- (15) **Holiday light displays** that are illuminated for not more than 45 consecutive days and 90 days total in any calendar year.

(16) **Solar energy devices** that:

- (a) Will be installed on and project not more than 10 feet above the surface of a roof with a slope greater than 5%; or
- (b) Will be installed on a roof with a slope of 5% or less.

(17) **Antennas** (including television antennas, radio antennas, satellite dishes or similar devices used to provide on-site communication including business dispatch or to provide public safety dispatch) that:

- (a) Are not more than 15 square feet in area, if a dish antenna;
- (b) Do not extend more than 12 feet above the roofline, if attached to a building;
- (c) Do not extend more than 50 feet above the ground, if freestanding;
- (d) Meet applicable setback requirements for the zoning district;
- (e) Do not interfere with public safety communications; and
- (f) Are installed in a location that minimizes visibility from public vantage points and adjoining property to the greatest extent feasible while allowing for reasonable function.

(18) **Telecommunications equipment** and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.

(19) **Electrical or communications distribution poles** being:

- (a) Replaced with new poles (including an increase in pole height); and
- (b) Repaired or upgraded with new or replacement cable or wire.

(20) **Transit shelters** that have a footprint of not more than 200 square feet and that are not more than 15 feet tall.

(21) **Public art** that does not:

- (a) Function as a commercial sign;
- (b) Extend into or obstruct a public right-of-way unless otherwise approved by the town or state, as applicable;
- (c) Interfere with corner visibility or sight distance for vehicular traffic;
- (d) Affect existing drainage patterns on adjacent lots or public rights-of-way; and
- (e) Pose a safety hazard.

(22) **Home occupations** that:

- (a) Are located within a dwelling unit;
- (b) Occupy not more than 25% of the habitable floor area of that dwelling;
- (c) Are carried out by one or more residents of that dwelling;
- (d) Do not have any non-resident employees working from that dwelling;
- (e) Do not generate regular customer or client traffic; and
- (f) Do not have a sign.



- (23) **Special events** (includes garage sales, yard sales, tent sales, auctions, festivals, mobile food service or similar activities) that do not occur on a lot for longer than 4 consecutive days and for more than 16 days in any calendar year.
- (24) **Sales of used personal or business goods** such as vehicles or equipment owned by the landowner or tenant that do not occur on the lot for more than 30 days in any calendar year (calculated cumulatively if goods are offered for sale at more than one time during the year) and that are limited to not more than 3 items at any given time if displayed outside.
- (25) **Hunting, fishing, trapping or shooting** in accordance with state regulations, but not including any permanent structures associated with such use.
- (26) **Non-commercial recreational trails and activities** but not including any permanent structures associated with such use.
- (27) **Work within public road rights-of-way** that is subject to approval from the town or state as applicable.
- (28) **Rail carrier transportation structures and uses** that are subject to federal laws and regulations.
- (29) **Federal government land and facilities.**

## **ARTICLE 2: ZONING DISTRICTS AND ZONING MAP**

### **Section 201: Establishment of Zoning Districts**

Peacham is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

|                             |            |     |
|-----------------------------|------------|-----|
| Rural District              | Designated | RD  |
| Village District            | Designated | VD  |
| Shoreland One               | Designated | SL1 |
| Shoreland Two               | Designated | SL2 |
| Agricultural Overlay        | Designated | AO  |
| Wellhead Protection Overlay | Designated | WH  |

### **Section 202: Zoning Map**

The Zoning Map is available online and by request from the Peacham Town Clerk's office. The location and boundaries of Zoning Districts are established as described herein and shown on the Zoning Map. The Zoning Map and all future amendments are hereby made a part of these Zoning Regulations. No changes of any nature shall be made in the Zoning Map except in conformity with §§4441 – 4442 of the Act.

Regardless of the existence of copies of the Zoning Map which may from time to time be made or published, the Zoning Map located in the Peacham Town Clerk's Office shall be the final authority as to the current zoning status of land and water areas.

Village Zoning Maps and Fluvial Erosion Hazard Zone Maps are included as an addendum to these Zoning Regulations.

### **Section 203: Interpretation of Zoning District Boundaries**

Where uncertainty exists regarding the boundaries of districts as shown on the Zoning Map, the following rules shall apply.

#### **203.1: Roads, Streams and Rights-of-Way**

Boundaries indicated as approximately following the center lines of roads, streams, and transportation and utility rights-of-ways shall be construed to follow such centerlines.

#### **203.2: Lot Lines**

Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

#### **203.3: Shoreline Boundaries**

Boundaries indicated as following shorelines shall be construed as following the defined mean water level.

#### **203.4: Parallel or Extended Boundaries**

Boundaries indicated as parallel to or extensions of features in 203.1 through 203.3 herein shall be so construed.

**203.5: Development Review Board Role**

Where circumstances are not covered by 203.1 through 203.4 herein, the Development Review Board shall interpret the district boundaries of the Zoning Map.

## **ARTICLE 3: ZONING DISTRICTS**

### **Section 301**

No zoning permit shall be issued by the Zoning Administrator for any use or structure other than one or two- unit dwellings, associated accessory uses and structures, and other uses exempted from these regulations, until the Development Review Board grants site development plan approval. If conditional use review under Section 802 also is required, site plan review may be conducted concurrently with conditional use review.

### **Section 302: Rural District (RD)**

The Rural District consists of all lands that are not part of the Village District or of Shoreland District 1 or Shoreland District 2.

#### **Allowed Uses**

Home occupation [see Section 404]

Agriculture [see Section 405]

#### **Permitted Uses**

Accessory use or structure

Accessory dwelling unit [see Section 418]

Animal hospital [requires site plan review]

Bed & Breakfast

Inn [requires site plan review]

Boarding House

Camp, private

Cemetery [requires site plan review]

Church [requires site plan review]

Clinic [requires site plan review]

Commercial recreation, outdoor

Dwelling, one unit

Dwelling, two unit

Farmstand\*

Home business

Horse riding stable

Nursing Home [requires site plan review]

Pond\*\* [requires site plan review]

#### **Conditional Uses - DRB Review Required**

Community center

Earth resource removal

Essential services

Kennel

Light industry [see Definitions]

Municipal use

Retail store

Solid Waste Facility \*\*\*

Waste transfer station\*\*\*

Planned unit development [see Section 901]

Public Facility

Sawmill

School, private and public\*\*\*

Subdivision

## Minimum Lot Area and Dimensional Requirements

Minimum Lot: 2 acres

Minimum area per primary dwelling unit: 2 acres

Minimum width on frontage: 200 feet

Minimum Front Setback: 65 feet

Minimum Side Setback: 25 feet

Minimum Rear Setback: 25 feet

Front yard setbacks are measured from the centerline of the existing road right-of-way.

\*On-farm stands that offer for sale principally produced product (i.e. more than 50% produced on the farm) are considered farm structures and are exempt from these zoning regulations.

\*\*The creation of a Pond may require other permits. For example, creating a pond by altering a perennial stream that involves the movement, excavation, or fill of more than 10 cubic yards of material annually requires a Stream Alteration from the Watershed Management Division of the Agency of Natural Resources.

\*\*\*These uses may be subject to some regulations at the municipal level. See Section 413.

## Section 303: Village District (VD)

The Village District contains the areas of Peacham Corner/Peacham Village, South Peacham and East Peacham. The boundaries are defined on the zoning map.

### Allowed Uses

Home occupation [see Section 404]

Agriculture [see Section 405]

### Permitted Uses

Accessory dwelling unit [see Section 418]

Dwelling, one unit

Accessory use or structure

Dwelling, two unit

Bed & Breakfast

Home business

Inn

Nursing home

Boarding house

Personal services [requires site plan review]

Cemetery

Pond

Church

Professional office [requires site plan review]

Clinic

Recreation, outdoor

Dwelling, multi- unit

### Conditional Use — DRB Review Required

Auto service station

Essential services

Community center

Farmstand

Municipal use

Planned unit development [see Section 901]

Retail store

School, private and public

Solid waste facility

Subdivision

### **Minimum Lot Area and Dimensional Requirements**

Minimum Lot: 1/2 acre

Minimum area per primary dwelling unit: 1/0.2 acre

Minimum width on frontage: 100 feet

Minimum Front Setback: 40feet

Minimum Side Setback: 10 feet

Minimum Rear Setback: 10 feet

Front setbacks are measured from the centerline of the existing road right-of-way.

### **Section 304: Shoreland One (SL1)**

The Shoreland One District provides for compact seasonal and year-round residential development in areas that are already largely developed. A principal concern in these areas is the possible adverse impact housing and other accessory uses may have on water quality. The land in SL1 is within 500 feet of the mean water level of lakes in the sections indicated on the zoning map.

#### **Allowed Uses**

Home occupation [see Section 404]

Agriculture [see Section 405]

#### **Permitted Uses**

Accessory dwelling unit [see Section 418]

Accessory use or structure

Dwelling, one unit

Dwelling, two unit

#### **Conditional Use – DRB Review Required**

Subdivision [see Section 417]

### **Minimum Lot Area and Dimensional Requirements**

Minimum Lot: 1 acre

Minimum area per primary dwelling unit: 1 acre

Minimum width on frontage: 100 feet

Minimum Front Setback: 100 feet (front yards are those facing the water)

Minimum Side Setback: 25 feet

Minimum Rear Setback: 35 feet

Front setbacks are to be measured from the mean water mark of the lake. Backyards are considered the side toward the primary road. Rear setbacks are measured from the center of the existing road right-of-way.

All proposed development must comply with the regulations of the Vermont Shoreland Protection Act and Vermont Wastewater System and Potable Water Supply Rules. Parcels created after July 1, 2014 must be large enough to allow the intended development and construction to comply with the Shoreland Protection Act (see Title 10, Chapter. 49A of the Vermont Statutes.

### **State of Vermont Lake Encroachment Permitting**

The jurisdiction of Lake Encroachment Permitting starts at mean water level and extends lakeward. Any project that involves work beyond the mean water level, requires a permit from Vermont Lake Encroachment Permitting. This includes but is not limited to shoreline stabilization, retaining wall replacements, fill, dredging, structures and commercial docks.

### **Section 305: Shoreland Two (SL2)**

The Shoreland Two District maintains the less developed character of the shoreline while allowing seasonal and year-round residential development. A principal concern in these areas is the possible adverse impact housing and other accessory uses may have on water quality. SL2 includes the less developed land within 500 feet of the mean water level of lakes in the sections indicated on the zoning map.

#### **Allowed Uses**

Home occupation [see Section 404]

Agriculture [see Section 405]

#### **Permitted Uses**

Accessory dwelling unit [see Section 418]

Accessory use or structure

Dwelling, one unit

Dwelling, two unit

#### **Conditional Use**

Subdivision [see Section 417]

### **Minimum Lot Area and Dimensional Requirements**

Minimum Lot: 2 acres

Minimum area per primary dwelling unit: 2 acres

Minimum width on frontage: 300 feet

Minimum Front Setback: 100 feet (front yards are those facing the water)

Minimum Side Setback: 25 feet

Minimum Rear Setback: 35 feet

Front setbacks are measured from the mean water mark of the lake. Back yards are considered the side

toward the primary road and are measured from the center of the road right-of-way.

All proposed development must comply with the regulations of the Vermont Shoreland Protection Act and Vermont Wastewater System and Potable Water Supply Rules. Parcels created after July 1, 2014, must be large enough to allow the intended development and construction to comply with the Shoreland Protection Act standards allowing the landowner to be permitted to build and develop the parcel as they have planned.

### **State of Vermont Lake Encroachment Permitting**

The jurisdiction of Lake Encroachment Permitting starts at mean water level and extends lakeward. Any project that involves work beyond the mean water level, requires a permit from Vermont Lake Encroachment Permitting. This includes but is not limited to shoreline stabilization, retaining wall replacements, fill, dredging, structures and commercial docks.

### **Section 306: Agricultural Overlay (AO)**

The Agricultural Overlay district superimposes on top of the Rural District (RD) districts. The provisions of the overlay district take precedent over the requirements of the underlying district. This district contains the prime farmland as identified on the official overlay map located in the Town Clerk's office. Agricultural uses take precedence over all other uses in this district. Residential development and the parcelization of farmland should be limited to only those cases which support improved management of land or where potential adverse impacts on resource lands or farming can be eliminated. While the minimum lot size for the district is 2 acres, the density of housing in this district shall not be allowed to significantly increase. The purpose of allowing for a home to be built on as little as 2 acres is to reduce the extent of resource lands lost to residential use and to allow the sale of more affordable lots. Subdivisions of three or more parcels are required to obtain Planned Unit Development ("PUD") (See Article 9) approval to allow for more creative design and efficient use of land. The development of additional town roads within the district is discouraged.

#### **Allowed Uses**

Home occupation [see Section 404]

Agriculture [see Section 405]

#### **Permitted Uses**

Accessory dwelling unit [see Section 418]

Accessory uses

Camp, private

Dwelling, one unit\*

Dwelling, two unit\*

Farmstand

#### **Conditional Uses – DRB Review Required**

Bed & Breakfast or Inn

Church

Earth resource removal

Essential services

Horse riding stable

Nursing home



|                            |  |
|----------------------------|--|
| Hospital                   | Solid waste facilities                     |
| Pond                       | State Building                             |
| Recreation, outdoor        | Subdivision [see Section 417]              |
| Retail store               | Planned Unit Development [see Section 701] |
| School, private and public |  |

**Minimum Lot Area and Dimensional Requirements**

Minimum Lot: 2 acres

Minimum area per primary dwelling unit: 2 acres

Minimum width on frontage: 200 feet

Minimum Front Setback: 45 feet

Minimum Side Setback: 25 feet

Minimum Back Setback: 25 feet

Front yard setbacks are to be measured from the centerline of the existing road right-of-way.

\*If the lot for a proposed one unit dwelling in the overlay district exceeds 10 acres, the Zoning Administrator shall apply the criteria below regarding the proposed dwelling. If the Zoning Administrator finds that one or more of the criteria apply, the permit applicant shall follow the provisions for Conditional Development Review Permits [see Section 802].

**Criteria: The proposed development shall not:**

- **Cause an adverse impact to water resources of the state.** Consideration shall include the need for a stream crossing, development of a shoreline, development of land up-slope from a stream or water body, development of a driveway up a steep slope from which stormwater is ultimately discharged to a stream or water body.
- **Cause an adverse impact to a headwater area as defined by Vermont statutes.** (Upland areas with highly erodible soils.)
- **Cause an adverse impact upon an existing water supply.**
- **Cause an adverse impact on acreage known to serve or mapped as deer wintering areas.**
- **Cause an undue adverse impact on open land traditionally used as part of an agricultural operation.**
- **Cause an adverse impact on municipal services, particularly services related to road maintenance.** Consideration shall include the probability that road improvements would be needed to accommodate increased use or the need to extend school busing services.
- **Cause an adverse impact on parking and/or on traffic safety.** Consideration shall include possible placement of driveways from steep grades or on to areas with poor visibility of the public road.
- **Cause an undue adverse impact on the traditional use or enjoyment of surrounding land.**
- **limit access to other property.**
- **Cause an undue adverse impact upon a scenic vista, ridgeline or otherwise impact the character of the area.**
- **Cause an undue adverse impact upon a known historic resource or municipal or state investment.**

### **Section 307: Well Head Protection District Overlay (WH)**

This district overlay consists of the land identified by the Vermont Department of Health as indicated on the zoning map. To protect the Village drinking water supply, this Well Head Protection area shall receive special consideration. Most uses in this sensitive zone are Conditional. Existing development may not be expanded or modified in use or size without first being granted an approval of the Zoning Administrator and the Development Review Board. The provisions of this district take precedence over any underlying or base district(s), and the Agricultural Overlay District (AO).

#### **Allowed Uses**

Home occupation [see Section 404]

Agriculture [see Section 405]

#### **Permitted Uses**

None

#### **Conditional Use – DRB Review Required**

Accessory dwelling unit [see Section 418]

Accessory use or structure

Dwelling, one unit

Dwelling, two unit

School, private and public

#### **Prohibited Uses and Land Management Activities**

Underground storage of wastes, wastewater tank and/or leaching field

Spreading of fertilizers, herbicides, or pesticides

Spreading of animal waste or human waste, except to one garden of less than 1,500 square feet per lot

Use or storage of salt or other de-icing materials on private roadways and parking areas

Any other activity that is likely to pollute, contaminate, or otherwise render impure the public water supply

## **ARTICLE 4: GENERAL PROVISIONS**

The provisions of this Zoning Regulations shall be subject to such additions, modifications or exceptions as herein provided by the following regulations.

### **Section 401: Shoreland Vegetation**

#### **401.1: Dwelling Lots**

The area of natural vegetation and trees at least 50 feet in width along the shoreland shall not be cut except for one opening per lot of no more than 25 feet in width measured at all points from the shoreline to the 50-foot setback. The buffer is required on lots with new structures and encouraged on lots with existing structures.

Except for permitted stream crossings, a vegetative buffer shall be left along streams and shoreland areas in which only light thinning or selective harvesting can occur so that breaks made in the canopy are minimal and a continuous cover is maintained.

This provision 401.1 is subordinate to the State Shoreland Protection Act and to the Flood Hazard provisions of Article 5 herein so far as applicable.

#### **401.2: Timber Harvesting and Vegetative Buffers**

This by-law incorporates the voluntary guidelines set forth in the current version of the Acceptable Management Practices (AMPs) for Maintaining Water Quality on Logging Jobs in Vermont (August 15, 1987) as adopted by the Commissioner of the Vermont Department of Forest Parks and Recreation. Guidelines of particular significance to Peacham are stream crossings and vegetative buffer, which state the following:

There shall be a vegetative buffer of at least 50 feet in depth left along all surface waters.

Except for necessary stream crossings, a vegetative buffer shall be left along streams and shoreland areas in which only light thinning or selective harvesting can occur so that breaks made in the canopy are minimal and a continuous cover is maintained.

### **Section 402: Existing Small Lots**

Any lot that is legally subdivided on or before the effective date of this Zoning Regulations, may be developed for the purposes permitted by these Zoning Regulations in the district in which it is located, even if it does not conform to minimum lot size requirements.

### **Section 403: Access To Public Roads or Waters**

#### **403.1: Access Required**

Land development on lots which do not have frontage on either a public road, public waters, or access to such a road or waters by permanent easement or right-of-way of record at least 20 feet in width shall require a conditional use review by the Development Review Board.

#### **403.2: Access Permits**

An Access Permit (curb cut permit) shall be required for all new or relocated driveways or access roads intersecting with town and state highways in accordance with Title 19 VSA, Section 1111. An Access Permit must be approved prior to driveway installation or other lot development.

## Section 404: Protection of Home Occupations

No provision of these regulations 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, incidental and secondary to the primary residential use, and which does not have an undue adverse effect upon the residential area in which the dwelling is located. 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. Home occupations:

- **Shall be clearly incidental and secondary** to the residential use of the property, and shall be conducted wholly within the principal or accessory structures, no outside storage shall be permitted; and
- **Shall not be a retail store.**

To ensure that a home occupation will not have an undue adverse effect upon the residential area in which the dwelling is located, the owner must demonstrate that the home occupation will comply with all the following standards:

- **No traffic shall be generated which would be uncharacteristic of the neighborhood.**
- **New parking required for the home occupation shall be provided off-street and shall not be located within any public or private road right of way.**
- **No noise, smoke, vibrations, dust, glare, odor, electrical interference or heat shall be generated** that is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
- **Exterior displays other than those normally permitted in the district shall be prohibited except** signs which do not conflict with applicable Zoning Regulations.

## Section 405: Farm Structures and Practices

Farm structure means a building, enclosure, or fence for housing poultry or livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in **10 VSA § 6001 (22)**, but excludes a dwelling for human habitation. These regulations shall not regulate “Accepted Agricultural Practices”, as defined by the Secretary of Agriculture, Food, and Markets, including the construction of farm structures, except that a person shall notify the Town of Peacham of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food, and Markets.

## Section 406: Temporary Uses and Structures

Temporary permits may be issued by the Zoning Administrator for non-conforming uses incidental to construction projects lasting for a period not exceeding one year. Such permits shall be conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year. Temporary structures for housing farm and forest workers are permitted during limited farm and forest operations provided they are removed when the operation is completed.

## Section 407: On Site Sewage Disposal

New dwellings shall be served by a wastewater disposal system meeting the standards set forth in the current Vermont Environmental Protection Rules, Chapter 1, Subchapter 7. All sewage disposal plans must be submitted with the zoning permit application.

## **Section 408: Lots in Two Zoning Districts or Lots in Two or More Towns**

### **408.1: Lots in Two Zoning Districts**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall apply to the entire lot.

### **408.2: Parcel of Land in Two or More Towns**

If a parcel of land is in two or more towns and has proposed development in Peacham, these Zoning Regulations shall apply only to the portion in Peacham.

## **Section 409: Projections into Required Yards**

No part of any principal or accessory structure, including decks, porches, or carports open at the sides but roofed, shall extend into any required front, side, or rear setbacks.

## **Section 410: Reduction of Lot Area**

No lot shall be so reduced in area that the area, setbacks, lot width, frontage, impervious structure, coverage or other requirements of this Zoning Regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when a lot or part of a lot is taken or conveyed for public purpose.

## **Section 411: Required Area or Yards**

Space required under this Zoning Regulations to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

## **Section 412: Yards on Corner Lots**

Any yard adjoining a corner of two streets shall be considered a front yard for the purposes of this Zoning Regulations and shall meet the minimum front setback requirements. Except in Shoreland Districts in which case they shall meet the minimum rear setbacks.

## **Section 413: Limitations**

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- State or community-owned and operated institutions and facilities.
- Public and private schools and other educational institutions certified by the state department of education.
- Churches and other places of worship, convents, and parish houses.
- Public and private hospitals.
- Regional solid waste facilities certified under 10 VSA Chapter 159
- Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
- Emergency shelters without limitation on daily or seasonal hours of operation

## **Section 414: Alterations and Adjustments**

Alterations and adjustments within the established exterior dimensions of a dwelling located outside of any regulated Flood Hazard Areas which do not change the use of the dwelling will not require a permit. Alterations which change the exterior dimensions of a structure shall require a permit. A destroyed dwelling and/or other structure located outside of any regulated Flood Hazard Areas may be rebuilt without a permit only if it conforms to the architectural footprint, height, dimensions, and use of the former structure. The site of a destroyed structure must be cleaned of all debris and any cellar hole capped within one year.

## **Section 415: Signs - Regulations and Restrictions**

Signs, as defined, are permitted uses considered independently of the businesses or operations they are advertising. No signs shall be permitted in the Town of Peacham except as follows:

### **415.1: Construction**

All signs must be well constructed and maintained in stable condition and the writing be legible.

### **415.2: Safety**

No sign shall hang or be placed so as to endanger the public. Signs shall not be placed in a public or private road right of way.

### **415.3: Location, Size, Illumination**

Residence and home occupation signs shall only be erected on the premises and located not more than 1,500 feet from a main entrance to the business. Signs may only be illuminated when the premises are open for business. These signs shall not exceed a maximum area of nine square feet.

### **415.4: Business and Commercial**

Hanging or standing signs shall not exceed a maximum area of twelve square feet. Signs painted on or permanently attached to the wall of a building shall not occupy more than 10% of the wall.

### **415.5: Moving Lights and Glare Prohibited**

No flashing, intermittent or moving lights shall be permitted. Lighted signs must be shielded to prevent glare on adjoining roads and windows of nearby dwellings. A sign must be removed if the indicated activity is discontinued.

### **415.6: Temporary Signs**

Signs to be maintained for not more than 4 weeks shall not exceed a maximum area of 6 square feet. Signs to be maintained for more than 4 weeks, must comply with Sections 415.1 through 415.5 (above).

## **Section 416: Maximum Building Height**

All residential buildings, including single, two and multi-unit, shall be limited to a maximum height of 30 feet above the grade line of the building. To determine height on a sloping lot, measure from the grade of each corner of the building to the highest point and take an average of those measurements.

## **Section 417: Subdivision of Land**

The division of a parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, lease, or sale shall be considered a subdivision.

### **417.1: Subdivision**

A subdivision shall be considered a conditional use and follow the same procedure as in section 801.

The application for a subdivision shall be submitted in advance to the Development Review Board with a duplicate copy to the Planning Commission and shall be accompanied by two copies of a plot plan drawn to scale depicting the boundary lines of the parcels, the proposed location of any buildings and or any structures involved and a map depicting its location in town. At a minimum, the applicant for a subdivision shall supply supporting information including a current survey of the proposed subdivision performed by a licensed surveyor, design and layout of streets, sidewalks, street lighting, fire protection, landscaping, water supply, wastewater and stormwater drainage facilities, public utilities, waste management considerations and other pertinent data as may be applicable. Two copies of all design and layout sheets are required.

Any division of a lot smaller than the minimum acreage required for a separate lot, which is to be conveyed to the adjoining property owner and is to be merged and used as part of the abutting lot, shall be allowed with a permit issued by the Zoning Administrator without DRB review so long as the application is clear as to the conditions and provides a plot plan drawn to scale depicting the new proposed boundary line between the parcels in a clear way.

### **417.2: Review Process**

The Development Review Board will review the application at a duly warned hearing. Concurrent with public notice of the hearing on the application review, the Development Review Board shall provide written notice of the pending application for proposed subdivision to the adjoining property owners from the list as described in Section 701 of these regulations.

### **417.4: On-Site Inspection**

The Zoning Administrator shall conduct an on-site inspection of any structure or development for which a Conditional Use permit has been granted before use of that property may commence. Any deviations from said conditions without Development Review Board approval shall constitute a violation of the Zoning Regulations as set forth in Section 904.

## **Section 418: Accessory Dwelling Units**

A landowner may obtain a zoning permit from the Zoning Administrator (no DRB approval is required) for an accessory dwelling unit (ADU) that:

- Is located within or appurtenant to a primary one-unit dwelling;
- Is clearly subordinate to the primary dwelling;
- Has provisions for independent living, including sleeping, food preparation and sanitation;
- Does not exceed 1200 square feet or 30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;
- Has a minimum of three off-street parking spaces (total for both primary dwelling and ADU);
- Meets the applicable dimensional standards of the zoning district, notwithstanding interior space within a pre-existing nonconforming structure may be converted to an ADU; and
- Meets state water supply and wastewater disposal standards.

### **Section 419: Recreational Vehicles**

Recreational vehicles that are used as a temporary, seasonal or permanent dwelling unit on the lot in question for more than 180 days during a period of 12 months shall be considered a permanent dwelling.

Recreational vehicles that are considered permanent dwellings must meet all the requirements of these regulations including setbacks and wastewater and potable water system installation. Temporary structures must meet the setback requirements of the district in which it is stored.

### **Section 420: Notice Prior to Construction Required**

Consistent with 24 V.S.A. Section 4495 (April 2, 1996), farm structures are exempt from the requirement to obtain a municipal zoning permit for their construction. The law requires that anyone proposing to build a farm structure must notify the Town of Peacham prior to construction. The law further requires that farm structures must be built in accordance with setbacks approved by the Vermont Commissioner of Agriculture, Food and Markets which, for Peacham, are those included in these Zoning Regulations.

Prior to construction of all other exempt structures, including sheds 10 feet by 10 feet or smaller, the Town of Peacham must be notified. All structures affect the assessment of the property value.



## **ARTICLE 5: FLOOD HAZARD REGULATIONS**

### **Section 501: Statutory Authorization and Effect**

In accordance with 10 V.S.A. Chapter 32, and V.S.A. Chapter 117 §4424, §4411, §4414 and §4415, there is hereby established flood hazard regulations for areas at risk of flood damage in the Town of Peacham, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

Precedence of Zoning Regulations The provisions of these flood hazard Zoning Regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions of this Article 5 shall take precedence.

### **Section 502: Warning of Disclaimer of Liability**

These regulations do not imply that land outside of the areas covered by these regulations will be free from flood or erosion damages. These regulations shall not create liability on the part of the Town of Peacham, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on these regulations, flood maps, or any administrative decision lawfully made hereunder.

### **Section 503: Lands to Which These Regulations Apply**

#### **503.1: Regulated Flood Hazard Areas**

These regulations shall apply to the Fluvial Erosion Hazard Areas and Special Flood Hazard Areas (hereafter called “hazard areas”) in the Town of Peacham, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

The Fluvial Erosion Hazard Zone as determined on the most current Fluvial Erosion Hazard Zone Maps for Peacham published by the Vermont Agency of Natural Resources which are hereby adopted by reference and declared to be part of these regulations, and

The Special Flood Hazard Area in and on the most current flood insurance studies and maps, if any, published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753. When such federal mapping is complete it shall be considered adopted by reference and declared to be part of these regulations.

#### **503.2: Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas**

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas, if any, where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant’s responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

#### **503.3: Interpretation**

The information presented on any maps, or contained in any studies, adopted by reference herein, is presumed accurate.

If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.

If uncertainty exists with respect to the boundaries of the Fluvial Erosion Hazard Zone, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

**Section 504: Summary Table: Development Review in Hazard Areas**

The hazard areas are not appropriate sites for new structures or for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

| #  | Activity  | Hazard Zone               |          |          |
|----|---|---------------------------|----------|----------|
|    |   | Special Flood Hazard Area | Floodway | FEH Zone |
|    | <b>P</b> Permitted<br><b>C</b> Conditional Use Review<br><b>X</b> Prohibited<br><b>A</b> Exempted |                           |          |          |
| 1  | New Structures  | X                         | X        | X        |
| 2  | Storage   | X                         | X        | X        |
| 3  | Improvements to Existing Structures   | P, C                      | C        | C        |
| 4  | Small Accessory Structures  | P                         | X        | C        |
| 5  | At Grade Parking  | P                         | C        | C        |
| 6  | Replacement water supply or wastewater systems  | C                         | C        | C        |
| 8  | Fill as needed to elevate existing structures   | C                         | C        | C        |
| 9  | Fill  | X                         | X        | X        |
| 12 | Grading   | C                         | C        | C        |
| 13 | Road maintenance  | A                         | A        | A        |
| 14 | Road improvements   | C                         | C        | C        |
| 15 | Bridges and culverts  | C                         | C        | C        |
| 16 | Channel management  | C                         | C        | C        |
| 17 | Recreational vehicles   | P                         | P        | P        |
| 18 | Open space, recreation  | A                         | A        | A        |
| 19 | Forestry  | A                         | A        | A        |
| 20 | Agriculture   | A                         | A        | A        |

## **Section 505: Development Review in Hazard Areas**

### **505.1: Permit**

A permit is required from the Zoning Administrator for all development in all areas defined in Section 504. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 505 and 506. Any permit issued shall require that all other necessary permits from State or Federal Agencies have been received before work may begin.

### **505.2: Permitted Development**

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway and outside of the Fluvial Erosion Hazard Zone, and meeting the Development Standards in Section 506, require only an administrative permit from the Zoning Administrator:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site wastewater or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

### **505.3: Prohibited Development in Special Flood Hazard Area and Fluvial Erosion Hazard Zone**

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.

### **505.4: Conditional Use Review**

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for proposed development within the following:

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally

dependent on stream access or stream crossing;

7. Public utilities;
8. Improvements to existing primary structures in the Fluvial Erosion Hazard Zone that do not expand the footprint of the existing structure more than 500 square feet;
9. Accessory structures in the Fluvial Erosion Hazard Zone, of 500 square feet or less, that represent a minimal investment
10. Building utilities in the Fluvial Erosion Hazard Zone; and,
11. At-grade parking for existing buildings in the Fluvial Erosion Hazard Zone.

#### **505.5: Exempted Activities**

The following are exempt from regulation under these regulations:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the Zoning Administrator in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

#### **505.6: Variances**

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Article 9 of these Zoning Regulations.

1. A variance for development within the Fluvial Erosion Hazard Zone may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### **505.7: Nonconforming Structures and Uses**

The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section 506 of these regulations;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements

of the National Flood Insurance Program;

3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in these regulations.

## **Section 506: Development Standards**

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

### **506.1: Special Flood Hazard Area**

1. All development shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 — A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
3. Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
4. Non-residential structures to be substantially improved shall:
  - a. Meet the standards in VII A 3; or,

- b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
6. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall
  - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. Recreational vehicles must be fully licensed and ready for highway use;
8. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 506.1.6 (above).
9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
12. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.

15. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

#### **506.2: Fluvial Erosion Hazard Zone**

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank;
2. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
3. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
4. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. Bridge and culvert projects must have a Stream Alteration Permit; and
7. Channel management activities must be authorized by the Agency of Natural Resources.

#### **Section 507: Administration**

##### **507.1: Application Submission Requirements**

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, Fluvial Erosion Hazard Zone, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin;

##### **507.2: Referrals**

1. Upon receipt of a complete application for a substantial improvement or new construction the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

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

### **507.3: Decisions**

The DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information.

### **507.4: Records**

The Zoning Administrator shall properly file and maintain a record of:

1. All permits issued in areas covered by these regulations;
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation; and,
4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

### **Section 508: Certificate of Occupancy**

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or Fluvial Erosion Hazard Zone until a certificate of occupancy is issued therefore by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these regulations. A certificate of occupancy is not required for structures that were built in compliance with the Zoning Regulations at the time of construction and have not been improved since the adoption of these regulations. Within 14 days of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

### **Section 509: Enforcement and Penalties**

1. These regulations shall be enforced under the municipal Zoning Regulations in accordance with 24 VSA Chapter 117 § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.
2. If any appeals have been resolved, but the violation remains, the Zoning Administrator shall



submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

3. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of these regulations. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

## ARTICLE 6: DEFINITIONS FOR FLOOD HAZARD REGULATIONS

**Accessory Structure** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

**Area of Special Flood Hazard** is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

**Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

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

**BFE** see Base Flood Elevation.

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

**Channel width** (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

**Common plan of development** is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

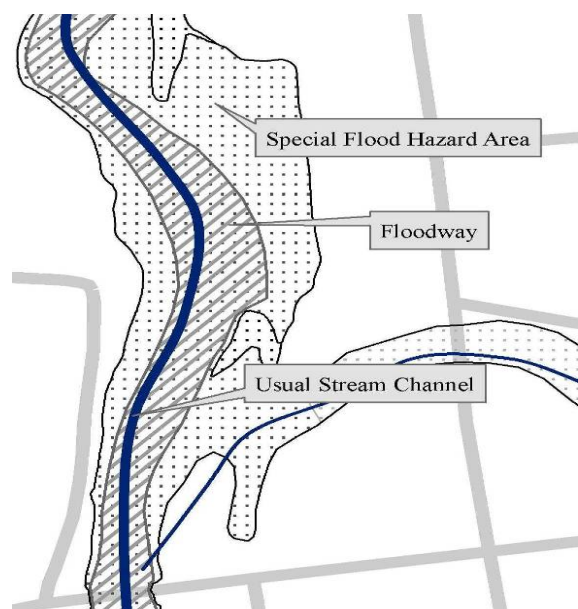
**Critical facilities** include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

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

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

**FIRM** see Flood Insurance Rate Map

**Flood** means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when



earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

**Floodplain or flood-prone area** means any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

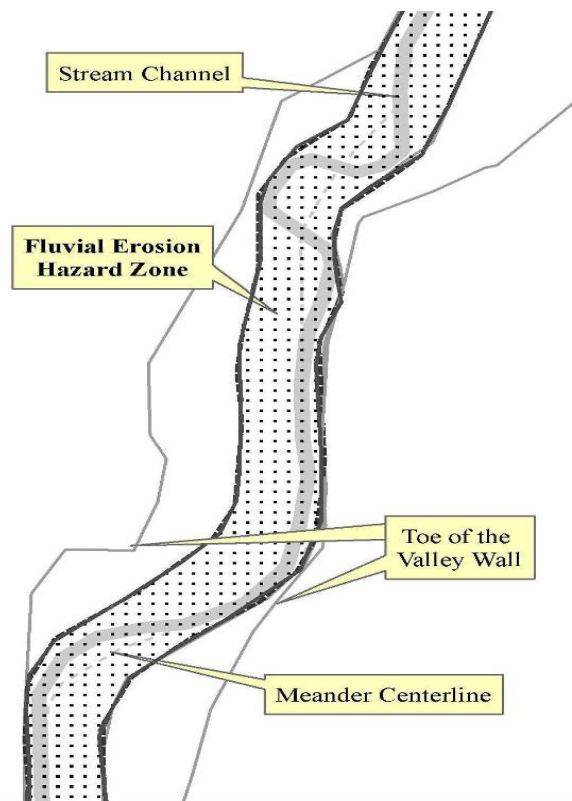
**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

**Fluvial Erosion** is erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

**Fluvial Erosion Hazard Zone** includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphically stable channel and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**Historic structure** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to



qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Amendment (LOMA)** is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

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

**Manufactured home (or Mobile 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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**New construction** for regulation under these regulations, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

**Nonconforming structure** means a structure or part of a structure that does not conform to the present zoning regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

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

**Nonconformity** means a nonconforming use, structure, lot, or parcel.

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

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

**Special Flood Hazard Area** is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area". This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps

published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov) Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

**Structure** means, for regulatory purposes under these regulations, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

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

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

**Top of Bank** means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

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

## **ARTICLE 7: NON-CONFORMING USES AND STRUCTURES**

### **Section 701: Non-Conforming Uses**

The following provisions shall apply to all structures and uses outside of all Regulated Flood Hazard Areas existing on the effective date of this Zoning Regulations which do not conform to the requirements set forth in this Zoning Regulations and to all buildings and uses that, in the future, do not conform by reason of any subsequent amendment to this Zoning Regulations, including a use improperly authorized as a result of error by the Zoning Administrator.

Any non-conforming use existing prior to the passage of this Zoning Regulations and all such uses that in the future do not conform by reason of any subsequent amendment to this Zoning Regulations or error of the Zoning Administrator may be continued subject to the following provisions:

#### **701.1: Non-conforming Use**

The current non-conforming use shall not be increased or expanded without a Conditional Use permit.

#### **701.2: Change to Another Non-conforming Use**

A non-conforming use shall not be changed to another non-conforming use without approval by the Development Review Board, and then only to a use which, in the opinion of the Development Review Board, is of the same or neutral or of a more restrictive nature in its effects upon town residents and its conformity with the town plan.

#### **701.3: Non-conforming Use – Abandonment and Discontinuance**

If a non-conforming use has been abandoned or discontinued, it may be re-established within twelve (12) months. After this twelve (12) month period, a non-conforming use may be re-established within twelve (12) months only with Development Review Board approval.

In its review of requests filed under Section 601.2 and 601.3, the Development Review Board shall consider the criteria listed below in Section 602 for a non-conforming structure.

### **Section 702: Non-Conforming Structures**

A non-conforming structure is a structure or part of a structure that does not conform to the present Zoning Regulations but was in conformance with all applicable laws, Zoning Regulations, and regulations prior to the enactment of the present Zoning Regulations, including a structure improperly authorized as a result of error by the Zoning Administrator. Non-conforming structures may continue to exist subject to the following:

#### **702.1: Review Required**

A non-conforming structure shall not be moved, enlarged, altered, extended or reconstructed without prior review and approval from the Development Review Board except that unsubstantial or insignificant changes which will clearly not increase or extend the non-conformity of the structure may be permitted by the Zoning Administrator. In its review process, the Development Review Board shall, at a minimum, consider the following:

1. The proposed change does not impinge upon a public or private road right-of-way.
2. That the proposed change creates no danger to the public safety through traffic access, flow, and/or circulation.
3. That the proposed change is in character with the traditional settlement and construction patterns of the area in which it exists, and
4. That the proposed change does not create an unreasonable infringement upon land uses in the immediate neighborhood.

**702.2: Reconstruction Time Period**

If a non-conforming structure is destroyed, it may be rebuilt and the non-conforming structure may be re-established if reconstruction begins within one (1) year. Extension of this time period requires approval of the Development Review Board. If destruction is caused by a natural event, the time period to start construction or to re-establish the use is extended to two (2) years.

**702.3: Maintenance and Repair**

Nothing in these regulations shall be deemed to prevent normal maintenance and repair of a non-conforming building provided that such action does not increase the degree of non-conformity.

## **ARTICLE 8: SPECIAL PROVISIONS**

### **Section 801: Site Plan Review**

701.1 No zoning permit shall be issued by the Zoning Administrator for any use or structure other than single or two-family dwellings, associated accessory uses and structures, and other uses exempted from these regulations, until the Development Review Board grants site development plan approval. If conditional use review under Section 702 also is required, site plan review may be conducted concurrently with conditional use review.

#### **801.2 Application**

An applicant seeking site plan approval shall submit two (2) sets of site plans, surveys and supporting data to the DRB which shall include the following information presented in drawn form and accompanied by written text:

1. Name and address of the owner of record of the land in question and of all adjoining properties including properties that would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way.
2. Survey of the land in question showing existing features, including contours, structures, large trees, streets, utility and other easements of record, rights of way, and land use and deed restrictions, name and address of person or persons preparing the survey, the scale of survey, north point and date.
3. Site plan showing proposed structures, location and elevations thereof and use to be made of other land subject to application; streets, driveways, traffic circulation, parking and loading spaces, pedestrian walks and snow storage areas.

#### **801.3 Review Criteria**

In considering whether to approve or disapprove any site plan submitted pursuant to this section, or to grant any waiver allowed by this Zoning Regulations, the DRB shall consider, and may impose appropriate conditions and safeguards with respect to a project's compliance with the provisions of this Zoning Regulations, the adequacy of traffic access, circulation and parking, adequacy of pedestrian circulation, landscaping and screening, exterior lighting, snow storage areas, utilization of renewable energy resources, storm water drainage and run-off, including freedom from flooding and ponding.

#### **801.4 Duration of Site Plan Approval**

Site plan approval shall expire two (2) years after such approval is no longer subject to appeal. At the request of the applicant for a project that requires an Act 250 approval, the the Zoning Administrator may extend the deadline to 1 year after the required Act 250 approval is no longer subject appeal.

### **Section 802: Conditional Use**

A Conditional Use is any of those uses which must meet standards in these regulations in addition to minimum lot size, dimension and set back requirements. Conditional Use proposals must be warned for a hearing before the Development Review Board. Any development designated as a Conditional Use in the table relating to a particular district may only be commenced after receipt of all approvals and permits as required by these regulations and then only upon the issuance of a Conditional Use permit by the Development Review Board A duly approved and permitted Conditional Use permit of a parcel of land, including those permits granted for subdivisions, shall continue after the transfer of ownership, lease, or sale of that land.

Conditional Use applications shall be accompanied by two sets of location and site plan maps showing proposed structure locations and land use areas; roads, driveways, traffic circulation, parking and



loading spaces; landscaping plans, including site grading, landscape design and screening. Conditional Use applications shall also include a narrative description of the current use of the parcel of land and, if located in an agricultural overlay as described in Section 306, how that parcel of land will continue to be used in the furtherance of agricultural purposes. Any applicant for a Conditional Use permit shall provide a list of all adjoining property owners or the application shall be deemed incomplete. After its review at the duly warned hearing, the Development Review Board shall make a written record of its decision upon the application including its review and discussion of the various aspects of the application and all requirements and or conditions placed upon the applicant because of its decision.

### **802.1: General Standards of Review**

Under 24 V.S.A. 4414(3) the Development Review Board, after public notice and hearing, shall consider the following general standards before granting, and shall not grant, a permit unless it finds that the proposed Conditional Use will not have an undue adverse effect on the following:

#### **(A) The Capacity of Existing or Planned Development**

1. Sufficient water must be available for the short- and long-term needs of the project and the project shall not result in undue impacts on any municipal water supply.
2. The project shall not cause other undue impacts on the municipality including but not limited to education, fire protection, emergency services, health services, recreation, waste disposal and recycling.

#### **(B) The Character of the Area Affected**

1. The proposed project, by its nature, scale, appearance or operation shall not have an undue adverse effect to the character of the potentially affected area as it exists in the municipal land use plan. Consideration shall be made with respect to the proposed development's effect on aesthetics, open spaces, and the scenic and historic integrity of the area affected. Measures to mitigate or restore any such adverse impacts shall be considered.

#### **(C) Traffic on Roads and Highways in the Vicinity**

1. The project shall not significantly reduce the safety of existing pedestrian, vehicular or recreational uses of the highways affected.
2. The proposed use shall not exhaust or exceed the physical capacity of the affected highway.

#### **(D) Utilization of Renewable Energy Resources**

1. A Conditional Use shall not excessively inhibit or restrict access to or the use of renewable energy resources.

### **802.2: Supplemental Considerations**

In addition to its review of the general criteria, the Development Review Board shall address the following considerations and performance standards and may make such additional requirements as it deems necessary to fulfill the intent of these regulations:

#### **(A) Economic Benefit**

The effect of the overall economic benefit to the community shall be considered. Such benefits shall not, however, be used to rationalize or justify waiver of any of the supplemental considerations.

#### **(B) Minimum lot size, width and building setbacks**

1. Where the Development Review Board determines that the minimum standard applicable to the zoning district is inadequate to avoid negative impacts to neighboring uses, it may increase the minimum requirement. This can be applied to increase setback requirement, decrease development density or increase minimum frontage requirements.

(C) Air/water/noise/light pollution and soil erosion

1. The Conditional Use exceed the intrinsic or inherent capability of the land to support the use.
2. The development shall not result in groundwater or surface water pollution, nor shall the development cause an undue impact on air quality, create undue noise or light pollution, or cause soil erosion.
3. Consideration shall be made regarding the nature of soils and topography, proximity to streams, aquifer recharge areas, groundwater table and flood plains and to storm water runoff and drainage.
4. Consideration shall also be given to the preservation, to the greatest extent possible, of the natural terrain, shorelines of lakes and streams, retention of vegetation and erosion control.
5. Consideration shall be given to the impact on adjacent properties.
6. Landscaping plans shall include number, size, type and location of plantings. Plans shall not allow for introduction of noxious or invasive species harmful to native vegetation types.
7. The ambient air and water quality standards shall be maintained or improved and under no circumstances shall the development be allowed to create a condition hazardous to the public health, safety or welfare.
8. Hours of operation shall be compatible with existing uses in the area.

(D) Wildlife habitat, agricultural and forest resources

1. The Conditional Use shall be designed to the greatest extent practicable to preserve critical habitats and ecologically uncommon or sensitive areas including but not necessarily limited to deer yards, wetlands, endangered or threatened species habitats and stream and shoreline corridors.
2. The Conditional Use shall, to the extent feasible, preserve the viability and productivity of agricultural resources.

(E) Off-Street parking vehicular and pedestrian traffic

1. Adequate off-street parking for Conditional Use must be provided.
2. Adequacy of traffic circulation, parking and loading facilities and access to and egress from public highways must be designed with particular attention to safety of the public and employees.
3. Pedestrian and bicycle access shall be encouraged.

(F) Lighting, signs and fences

1. The Development Review Board shall consider the size, materials and location, according to the rules of 701.1. In addition, lighting and fences shall be in keeping with the natural and/or historic beauty of both the town as a whole and the zoning district.
2. Minimum set back distances from property lines may be reasonably reduced as they apply to structures normally intended to function on or near property lines such as signs, fences or essential services.
3. In the interest of maintaining the rural character of Peacham and reduction of light pollution, lighting, except that which is primarily for security purposes, will not generally be permitted for use outside of normal business hours.

### **802.3 Limitations on Conditions of Approval**

The Development Review Board must not attach conditions to residential development that:

1. Require a larger lot size than the minimum required under this bylaw.
2. Require more parking than the minimum required under this bylaw.

3. Limit the size of a building to less than the maximum height or footprint allowed under this bylaw.
4. Limit density to less than the maximum allowed under this bylaw.

The Development Review Board may attach conditions to residential development that would otherwise be prohibited by the paragraph above if the decision includes a written finding that the condition of approval:

1. Is necessary to conform to other federal, state or municipal regulations or to a non-discretionary standard of this bylaw; and
2. Will not result in an unequal treatment of housing or an unreasonable exclusion of housing otherwise allowed under this bylaw.

The Development Review Board must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board approval will be considered part of any subsequent zoning permit issued by the Zoning Administrator for the approved development.

### **803 Waivers**

The Development Review Board:

1. May approve waivers as specifically authorized in this bylaw.
2. May approve waivers that authorize an adjustment of not more than 50% to a dimensional standard of this bylaw.
3. Must not approve waivers within the Flood Hazard Overlay District.
4. Must not approve waivers to reduce any riparian or wetland setback or buffer required under this bylaw.
5. Must not approve a waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of this bylaw.

The applicant must file a complete zoning permit application and a written request for a waiver with the Zoning Administrator that includes all of the following:

1. A brief description of the subject property and proposed development.
2. A reference to the standard(s) of this bylaw that the applicant is requesting a waiver from.
3. The specific modification(s) that the applicant is requesting.
4. A response to each of the review criteria below.

The Development Review Board must hold a public hearing. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

To approve a waiver, the Development Review Board must find that all the review criteria below are met:

1. The proposed development will not alter the character of the area in which the property is located.
2. The proposed development will not impair the lawful use or development of nearby property.
3. The proposed development will not be detrimental to public health, safety or welfare.
4. The proposed development is reasonable and similar to development on other properties in the area.
5. The applicant is proposing adequate mitigation through design, screening or other remedy.

## 804 Variances

The Development Review Board:

1. May approve variances that authorize adjustments to the dimensional standards of these regulations under the specific circumstances described in this section.
2. Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of this bylaw.

The applicant must file a complete zoning permit application and a written request for a variance with the Zoning Administrator that includes all of the following:

1. A brief description of the subject property and proposed development;
2. A reference to the specific provision(s) of these regulations that the applicant is requesting a variance from;
3. The specific modification(s) that the applicant is requesting; and
4. A response to each of the review criteria in the table below.

The Development Review Board must hold a public hearing. If the applicant is requesting a variance from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

To approve a waiver, the Development Review Board must find that all the review criteria in the table below are met as follows:

1. If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply;
2. If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply; or
3. For all other variances, the general variance criteria apply.

| VARIANCE REVIEW CRITERIA  | GENERAL | ENERGY | FLOOD |
|---|---------|--------|-------|
| The proposed development will not alter the essential character of the area in which the property is located.   | Yes     | Yes    | Yes   |
| The proposed development will not substantially or permanently impair the lawful use or development of adjacent property.   | Yes     | Yes    | Yes   |
| The proposed development will not be detrimental to public health, safety or welfare.   | Yes     | Yes    | Yes   |
| The applicant has not created the unnecessary hardship.   | Yes     | Yes    | Yes   |
| The applicant is proposing the least deviation possible from these regulations that will afford relief.   | Yes     | Yes    | Yes   |
| 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. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an | Yes     | No     | Yes   |

|   |    |     |     |
|---|----|-----|-----|
| unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property. |    |     |     |
| It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.  | No | Yes | No  |
| The proposed development will not reduce access to renewable energy resources on adjacent property.   | No | Yes | No  |
| The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.  | No | No  | Yes |

## **ARTICLE 9: PLANNED UNIT DEVELOPMENT**

### **Section 901: Planned Unit Development**

In accordance with the provisions set forth in Title 24 VSA, Section 4417, RD, VD, and AO districts may be modified for Planned Unit Development subject to the following conditions and in accordance with the following procedures:

#### **901.1: Purpose**

The purpose of the Planned Unit Development provision is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open land, to provide for a mixture of housing types at different densities.

#### **901.2: Application Procedures**

The site plan shall be submitted to the DRB showing the location and spacing of buildings, open spaces and their landscaping, streets, driveways and off-street parking spaces, unique natural or man-made features, and physical conditions of the site accompanied by a statement setting forth the nature of all proposed modifications, changes or supplement of existing Zoning Regulations.

The DRB shall hold a public hearing on all Planned Unit Development applications.

#### **901.3: Standards for Review**

The following general standards shall be met:

- A. The Planned Unit Development is consistent with the municipal plan;
- B. The overall density of the project does not exceed the number of dwelling units which could be permitted in the DRB's judgment, if the land were subdivided into lots in accordance with the district regulations;
- C. The uses proposed for the project are residential one unit, two-unit, and multi-unit dwellings
- D. The development plan is proposed over a reasonable period of time in order that adequate facilities and services may be provided.

#### **901.4: Open Space**

If the Planned Unit Development results in lands available for parks, recreation, open space or other community purposes, the DRB, as a condition of its approval, may establish such conditions as to the ownership, use and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes.

#### **901.5: Decision**

As with all decisions by the DRB, the DRB must approve or not approve a Planned Unit Development application in writing within forty-five (45) days of the close of public hearing with appropriate contingencies for other approvals (local, state or federal) as may be necessary for the development. The application is deemed approved on the 46th day if no decision is issued.

## **ARTICLE 10: ADMINISTRATION AND ENFORCEMENT**

### **Section 1001: Zoning Administrator**

A Zoning Administrator, who may hold any other office in the municipality, shall be nominated for a term of three years by the Planning Commission, and appointed by the Legislative Body, promptly after the adoption of the first of such Zoning Regulations or when a vacancy exists or upon the expiration of the 3-year term. The Zoning Administrator shall administer this Zoning Regulations literally and shall not have the power to permit any land development which is not in conformance with such Zoning Regulations. A Zoning Administrator may be removed for cause at any time by the Legislative Body.

The Planning Commission may nominate, and the Legislative Body appoint, an acting Zoning Administrator who shall have the same duties and responsibilities as the Zoning Administrator in his or her absence. The duties of the Zoning Administrator are:

#### **1001.1: Conformance with Zoning Regulations**

To receive applications for permits for building construction and to grant permits for such construction or land use consistent with the provisions of this Zoning Regulations;

#### **1001.2: Construction Inspections**

To inspect such construction work no less frequently than monthly and to document each such inspection in the public record so as to insure conformity with these Zoning Regulations;

#### **1001.3: Enforcement and Administration**

To perform such other duties as may be required to insure the enforcement and administration of these Zoning Regulations;

#### **1001.4: Recording**

To keep on file in the Town office building, and available to the public, a full and accurate record indexed by landowner name and/or parcel number of all applications, permits, and violations received, issued or incurred during his or her administration. All complaints of or information indicating violations shall be investigated, documented, and placed in the public file within 30 days of receipt of the complaint or information.

#### **1001.5: Grant Administrative Waivers**

In all districts, waivers may be granted without a hearing by the Zoning Administrator for:

1. Reductions in front or side setbacks as necessary to allow for disability access;
2. Reductions in side set-backs to allow for necessary life safety improvements.

### **Section 1002: Zoning Permit**

#### **1002.1: Permits, Fee**

No land development may commence unless a zoning permit shall have been duly issued by the Zoning Administrator, as provided for in Title 24 VSA, § 4449. The fee for such zoning permit shall be as established by the Legislative Body.

#### **1002.2: Application**

All applications for zoning permits shall be submitted by the property owner or their agent confirmed in writing by the property owner and shall be accompanied by:

- A. Two copies of a sketch plan of the lot, on a sheet of paper not smaller than 8 1/2" x 11,

showing dimensions and location of boundary markers which shall be in place on the ground; or, two copies of a surveyor's plan of the lot.

- B. The plan submitted must also show location of the building and accessory buildings to be erected, water supply, and the wastewater disposal system. Other information as may be necessary to determine compliance with this Zoning Regulations may be required.

### **1002.3: The Issuance of Permit**

The Zoning Administrator shall not issue a zoning permit unless an application, fee, plot plan and any other approvals required by this Zoning Regulations have been properly submitted. The Zoning Administrator shall, within 30 days of submission of the application, data and approvals, either issue or deny a zoning permit or refer the application to the Development Review Board. If denied, the Zoning Administrator shall so notify the applicant in writing, stating his or her reasons, therefore. If the zoning permit is approved, and construction has not substantially commenced within 12 months, the permit is void.

### **1002.4: Permit Issuance - Filing and Notice**

Each zoning permit issued under this section shall contain a statement of the period within which an appeal may be taken. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall:

- A. Deliver a copy of the permit to the Listers of the municipality; and
- B. Post a copy of the permit in at least one public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit;
- C. Deliver one copy to the Town Office public file and index it, and deliver another copy to the Town Clerk to record either:
  - 1. Permit, or
  - 2. Notice of municipal action” referencing all landowners' names, the parcel number and location.

The applicant within 3 days of the date of issuance shall post a copy of permit within view of nearest public right-of-way for a period of 15 days from the date of issuance. Posters are available from the Town Clerk.

No zoning permit is required nor are setbacks applicable to the following:

- 1. Fences, hedges, or walls not exceeding 6 feet in height which do not interfere with corner visibility.
- 2. For temporary signs (see Section 415.5).
- 3. Residential window and dormer awnings.

No zoning permit is required but zoning district setback requirements apply to accessory structures not exceeding one hundred square feet in floor area.

### **1002.5: Effective Date**

No zoning permit will take effect until the time for appeal has passed, or if a notice of appeal is properly filed, such permit will not take effect until final adjudication or other final resolution of the appeal. If the Zoning Administrator fails to act on a permit application within thirty (30) days of receipt, a permit shall be deemed issued on the 31st day, at which time the applicant will notify the Zoning Administrator, Town Clerk, Development Review Board, and Town of Peacham Planning Commission of such circumstances and shall post a public notice of it and the 15-day appeal period rights on three (3) official town bulletin boards.



### **Section 1003: Violations**

Any person who violates a provision of this Zoning Regulations shall be subject to a fine of \$50 for each 24 hours or fraction thereof in which he is in violation, after proper notification of said violation and sixty (60) days to correct same. Appropriate action or proceedings shall be instituted by the Zoning Administrator to prevent such violation or to prevent continuance or furtherance of the violation, according to §§4451 and 4452 of the Act.

Appeals related to any decision or act taken or omission by the town's Zoning Administrator must follow the procedures outlined in section 808.

### **Section 1004: Development Review Board**

There is hereby established a Development Review Board which may consist of the members of the Planning Commission. Members of the Development Review Board shall be appointed by the Legislative Body. Terms of office shall be for two years. Vacancies shall be filled by the Legislative Body of unexpired terms and upon the expiration of terms. Any member of the Development Review Board may be removed for cause by the Legislative Body upon written charges and after a public hearing.

### **Section 1005: Powers and Duties of Development Review Board**

The Development Review Board shall have the following powers and duties:

1. To hear and decide appeals including, without limitation, those alleging that an error has been committed in any order, requirement, decision or determination made by a Zoning Administrator in connection with the enforcement of these Zoning Regulations.
2. To hear and grant or deny a request for a variance.
3. To hear and grant or deny a request for a zoning permit for a Conditional Use.
4. To hear and grant or deny a request for a stay of enforcement.

### **Section 1006: Powers and Duties of the Planning Commission**

The Planning Commission shall have the following powers and duties:

1. Prepare a plan and amendments thereof for consideration by the Legislative Body and to review any amendments thereof initiated by others.
2. Prepare and present to the Legislative Body proposed Zoning Regulations and make recommendations to the Legislative Body on proposed amendments to such Zoning Regulations.
3. Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection. Data gathered by the planning commission that is relevant to the geographic information system established under 3 V.S.A §122 shall be compatible with, useful to, and shared with that system;
4. Hold public meetings;
5. Participate in a regional planning program.

## **Section 1007: Appeals**

### **1007.1: Appeals of Decisions of the Zoning Administrator**

Any interested person (see Section 907.2) may appeal a decision or act of the Zoning Administrator (i.e., Zoning Administrator) within 15 days of the date of the decision or act by filing a notice of appeal (see Section 907.3) with the Secretary of the Development Review Board, or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

### **1007.2 Interested Person**

For this section, an interested person (which term includes entities) means any one of the following (Title 24 V.S.A. § 4465(b)):

A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by this bylaw, who alleges that this bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

the Town of Peacham or any adjoining municipality, including the Fire District;

A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under this 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 Peacham Town Plan or this bylaw;

Any ten (10) people who may be a combination of voters, residents or property owners within Peacham who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not comply with the policies, purposes or terms of the Peacham Town Plan or this bylaw. The petition must designate one person to serve as the representative of the petitioners regarding all matters relate to the appeal and;

Any department or administrative subdivision of the state owning property or any interest within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

An interested person may not file an appeal of a project that includes affordable housing based on character of the area affected.

The Development Review Board shall maintain a list of all interested persons and the nature of their participation in the appeal that includes their name, address, and the way they participated (e.g., speaking at a hearing, writing to the Development Review Board) [Title 24 V.S.A. § 4471]. At the conclusion of the appeal, the list shall be filed with the Zoning Administrator and the Town Clerk as part of the public records of the Town of Peacham.

### **1007.3: Notice of Appeal**

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with § 4466 of the Act:

1. the name and address of the appellant,
2. a brief description of the property with respect to which the appeal is taken,
3. a reference to applicable provisions of these regulations,
4. the relief requested by the appellant, including any request for a variance from one or more

provisions of these regulations, and

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

#### **1007.4 Hearing on Appeal**

1. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as requested under § 4468 of the Act. The Board shall give public notice of the hearing (see Section 908.1) and shall mail a copy of the hearing notice to the appellant (and the applicant if not the appellant) not less than 15 days prior to the hearing date.
2. The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [Title 24 V.S.A. § 4470].
3. In accordance with title 24 V.S.A. § 4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. § 810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
4. A decision on the appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under Title 24 V.S.A. § 4464(b). The decision shall be sent by certified mail to the appellant (and the applicant if not the appellant) within the 45-day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Zoning Administrator and the Town Clerk as part of the public records of the Town of Peacham. Failure of the Board to issue a decision within this 45-day period shall be deemed approval of the original application and shall be effective on the 46<sup>th</sup> day.

#### **1007.5 Appeal of Variance**

On an appeal for a variance from the provisions of this Zoning Regulations, the Board shall grant variances, if all of the following facts are found:

1. There are unique 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 these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
2. Because of these physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
3. Unnecessary hardship has not been created by the appellant;
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

5. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

### **Section 1007.6 Appeals to Environmental Court**

In accordance with § 4471 of the Act, an interested person who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered by the Board under Section 907.4, within 30 days of such decision, to the Vermont Environmental Court. Appeals to the Environmental Court shall also meet the following requirements:

“Participation” in a Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of these persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **Section 1008: Public Hearings**

#### **1008.1: Public Notice**

In accordance with Title 24 V.S.A. § 4464, a warned public hearing shall be required for Conditional Use review (Section 601), appeals of decisions of the Zoning Administrator and variances (Sections 907.1 and 907.5) and final subdivision review (Section 417). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
2. posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view of the public right-of-way nearest to the property for which the application is being made;
3. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
4. for hearings on subdivision plots located within Peacham Fire District #1 (the Village Water District) written notice to Peacham Fire District through its prudential committee; and
5. For hearings on subdivision plats located within 500 feet of a Town boundary, written notification to the clerk of the adjoining town.

Public notice of all other types of development review hearings, including site plan review shall be given not less than seven (7) days prior to the date of the public hearing, and shall, at minimum, include the following:

1. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
2. written notification to the applicant and to owners of all properties adjoining the subject property,

without regard to public rights-of-way, which includes a description of the proposed project, clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

### **1008.2: Hearings**

In accordance with Title 24 V.S.A. § 4461, all meetings and hearings of the Development Review Board, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board. The Development Review Board, in conjunction with any hearing under these regulations, may:

1. examine or cause to be examined any property, maps, books, or records bearing upon the matter concerned in that proceeding;
2. require the attendance of any person having knowledge in the premises;
3. take testimony and require proof material for its information; and
4. administer oaths or take acknowledgement in respect to those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 808.2 are met. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

In accordance with Title 24 V.S.A. § 4464(b), 4468, the Development Review Board may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

### **Section 1008.3: Time Extensions**

All decisions of the Zoning Administrator and Development Review Board are to be made within the time constraints required in this Zoning Regulations. However, applicable time periods may be extended if there is a delay in the receipt of full application material requested or if there has been a continuation of a public hearing regarding the proposal.

## **ARTICLE 11: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE**

### **Section 1101: Amendments**

These Zoning Regulations may be amended according to the requirements and procedures established in §§ 4441 and 4442 of the Act.

### **Section 1102: Precedence**

The provisions of these Zoning Regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where these Zoning Regulations impose a greater restriction, the provisions herein shall take precedence.

### **Section 1103: Adoption of Zoning Regulations and Effective Date**

These Zoning Regulations shall take effect 21 days after adoption or after its approval by the Select Board of the Town of Peacham, according to the procedures contained in Title 24 VSA, § 4442.

### **Section 1104: Separability**

The invalidity of any article or section of these Zoning Regulations shall not invalidate any other article or section thereof.

### **Section 1105: Repeal**

The pre-existing Zoning Regulations together with all changes and amendments thereto are repealed as of the effective date of these regulations.

## **ARTICLE 12: DEFINITIONS**

Except where specifically defined herein, all words used in these Zoning Regulations shall carry their accepted meanings.

LOT includes the words PLOT or PARCEL which terms may be used interchangeably.

MAY is permissive except when used with a negative subject.

PERSON includes any type of entity as well as an individual.

PRESENT TENSE includes the future tense, the singular number includes the plural, and the plural number includes the singular.

SHALL is mandatory.

USED or OCCUPIED include the words INTENDED, DESIGNED, or ARRANGED TO BE USED, or OCCUPIED which terms may be used interchangeably.

**ACCESSORY DWELLING UNIT:** Accessory dwelling means use of a structure on a single-unit residential property to provide complete independent living facilities for a second household including permanent and separate provisions for entry, living, sleeping, eating, cooking and sanitation.

**ACCESSORY STRUCTURE:** A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

**ACCESSORY USE:** A land activity or use customarily incidental to, subordinate to and necessary for the principal use or structure and located on the same lot (e.g. parking).

**ACRE:** A unit of measurement with an area of 43,560 square feet.

**ACT:** Vermont Planning and Development Act, TITLE 24 VSA, Chapter 117.

**ADJOINING PROPERTY OWNER:** Means a person who owns land in that:

1. shares a boundary or common corner with a tract of land where a proposed or actual development or subdivision is located; or,
2. is adjacent to a tract of land where a proposed or actual development or subdivision is located, and the two properties are separated only by a river, stream, or public highway.

**AGRICULTURE:** Includes raising crops, harvesting and processing of maple sap, dairying pasturage, bee keeping, raising of vegetables, fruit and flowers, forestry, livestock and poultry husbandry, for food, fiber, wood products, decoration or renewable energy pursuant to 10 V.S.A. §6001(22) but shall not include a dwelling for human habitation.

**ALLOWED USE:** A use that may occur without requiring a permit from the Zoning Administrator.

**ALTERATION OR ADJUSTMENT:** Structural change, re-arrangement, change of location or addition to a building, other than repairs and modification within a building.

**AUTO SERVICE STATION:** Building or land that is used for the sale of motor fuel, oil and motor vehicle accessories and facilities for lubricating, washing or servicing motor vehicles.

**ANIMAL HOSPITAL:** A place where animals or pets are given medical or surgical treatment, and the boarding of animals is limited to short-term care incidental to the hospital use.

**BOARDING HOUSE:** Building wherein more than four people are sheltered for profit.

**BUFFER:** An undeveloped portion of a lot where the natural vegetation is left undisturbed. An area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent stream or waterway.

**BUILDING:** Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or possessions.

**CAMP:** Private seasonal or occasional use housing not used more than 180 days per calendar year. State wastewater and potable water rules may apply and provide different criteria.

**CAMPGROUND:** A commercial enterprise in which overnight cabins, travel trailers, and/or tent sites are provided with or without additional services.

**CEMETERY:** Property used for the interment of the dead.

**CHURCH:** A structure in which worship, ceremonies, rituals, and education pertaining to a certain system of beliefs are held.

**CLINIC:** a non-residential office building used by members of the medical professions for the diagnosis and out-patient treatment of human ailments.

**COMMERCIAL RECREATION, OUTDOOR:** Includes publicly and privately owned and operated commercial golf course, trap, skeet, and archery range, skating rink, horse riding stables, and skiing facility, playground, playfield, park, open space, swimming pool, and similar places of outdoor recreation. The term does not include recreational vehicle park or campground.

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

**COMMUNITY CENTER:** A facility used for recreational, social, educational, and cultural activities that is not operated primarily for profit. Includes public or private meeting hall, place of assembly, museum, art gallery, library, or place of further education,

**CONDITIONAL USE:** A use that may occur within a district but that shall be reviewed by the Development Review Board under the criteria set forth in Article 7.

**CRITICAL FACILITIES:** include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

**DAYS:** means calendar days, not business days.

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

**DWELLING, ONE- UNIT:** Detached building used as living quarters by one household.

**DWELLING, MULTI- UNIT:** Building used as dwelling units by three or more households living independently of each other.



**DWELLING, TWO- UNIT:** Building used as living quarters by two households living independently of each other.

**DWELLING UNIT:** Building or part thereof used as living quarters for one household.

**EARTH RESOURCE REMOVAL:** The removal of sand, gravel, stone ore, or other natural resource from the ground, by digging or drilling, for use on other parcels of land.

**ESSENTIAL SERVICES:** The erection, construction, alteration by public utilities, companies, town, or other governmental agencies of electrical or water distribution systems, telephones, telecommunication towers and/or facilities, or sewer systems, including buildings necessary for furnishing adequate service.

**FARMING:** 'Farming' is defined in section 6001(22) of Title 10, but excludes a dwelling for human habitation.

**FARMSTAND:** A structure for merchandising agricultural products, including farm markets and cooperatives. For purposes of this Zoning Regulations, "farmstand" also includes operations selling less than 50% of goods sold which are attributed to off-farm production.

**FARM STRUCTURE:** A building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as 'farming' is defined in section 6001(22) of Title 10, but excludes a dwelling for human habitation.

**HISTORIC STRUCTURE:** Means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. by an approved state program as determined by the Secretary of the Interior or
  - b. directly by the Secretary of the Interior in states without approved programs.

**HOME OCCUPATION:** Any activity carried out for commercial personal gain by a resident conducted as an accessory use in the resident's dwelling unit or accessory building which does not change the character thereof. Only one employee allowed in addition to the home resident.

**HORSE RIDING STABLE:** A commercial activity related to horse riding, boarding and/or grooming.

**INN:** A commercial establishment providing lodging and usually meals for travelers.

**KENNEL:** An establishment in which domesticated animals are housed, groomed, bred, boarded, trained or sold.

**LAND DEVELOPMENT:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other

structure, or land, or extension of use of land.

**LEGISLATIVE BODY:** For purposes of these Zoning Regulations, Legislative Body refers to the Town of Peacham Selectboard.

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

**LIGHT INDUSTRY:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment or testing of materials, goods or products provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property.

**LOT:** Means an area of land with identifiable boundaries and dimensions that is formally described and recorded in the Peacham land records and that can be lawfully owned and conveyed separately from any other land. Land divided by town roads, state highways or public road rights-of-way, Peacham Hollow Brook, South Peacham Brook or other surface waters with a drainage area of greater than 10 square miles will be considered separate lots for the purposes of this bylaw.

**LOT AREA:** Total area within the property line excluding any part thereof lying within the boundaries of a public highway or proposed public highway.

**LOT, CORNER:** Lot which has an interior angle of less than 135 degrees at the intersection of two highways. A lot abutting a curved highway shall be considered a corner lot if the tangents to the curve at the points of intersection create an intersect at an interior angle less than 135 degrees.

**LOT DEPTH:** Mean horizontal distance from the highway line of the lot to its opposite rear line measured at right angles to the building front line.

**LOT FRONTAGE:** Frontage on public and private rights-of-way.

**LOT LINE:** Property lines abounding a lot.

**LOT WIDTH:** Width measured at right angles to its lot depth, at the required building front line.

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

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

**MANUFACTURED HOME PARK:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**MEAN WATER LEVEL:** Is defined by Vermont Natural Resources Board Water Resources Panel in their Rules Determining Mean Water Levels as amended, effective Dec 30, 2011 or as amended most current <http://www.anr.state.vt.us/dec/rules/pdf/waterlvl.pdf>

**MINOR PORTION:** Less than 50% of square feet of floor space of the structure.

**NEW CONSTRUCTION:** For regulation under this bylaw, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

**NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present Zoning Regulations but was in conformance with all applicable laws, Zoning Regulations, and regulations prior to the enactment of the present Zoning Regulations, including a structure improperly authorized because of error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**NON-CONFORMING USE:** Use of land or structure which does not comply with the Zoning Regulations for the district in which it is located, including a use improperly authorized because of error by the Zoning Administrator.

**NONCONFORMITY:** A non-conforming use, structure, lot, or parcel.

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

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

**PARKING SPACE:** An off-street space, at least ten feet wide and twenty-two feet long (not including access driveway), having direct access to a street or approved right-of-way and is used for the temporary location of one licensed motor vehicle.

**PERMITTED USE:** A use or structure that may occur within a district upon issuance of a permit from the Zoning Administrator.

**PERSONAL SERVICES:** Includes barber, hairdresser, beauty parlor, shoe repair, shoeshine, laundry, laundromat, dry cleaner, photographic studio, and business providing similar services of a personal nature.

**PLANNED UNIT DEVELOPMENT:** An area of land, controlled by a landowner, to be developed as a single entity for some number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one or more districts created in this Zoning Regulations. (Please see Sec. 418 and 701)

**POND:** A body of water created because of the impoundment of ground or surface water.

**PRINCIPAL BUILDING:** A building in which is conducted the main or principal use of the lot on which said building is located.

**PRINCIPAL STRUCTURE:** Same as principal building.

**PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession, and regularly frequented by persons obtaining the services of the professional.

**PUBLIC DUMP:** See transfer station.

**PUBLIC FACILITY:** A building, utility or other facility owned, leased, held, used and/or controlled exclusively for public purposes by a municipal, state, or federal government, regulated utility or railroad.

**RECREATIONAL VEHICLE:** means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and,
4. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**RESIDENTIAL USE:** Includes one- unit dwelling, two- unit dwelling and multi- unit dwelling.

**RETAIL STORE:** Includes enclosed restaurant, cafe, shop and store for the sale of retail goods, personal service shop and department store; and shall exclude any drive-up service, free standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**RIGHT-OF-WAY:** The right to pass over property owned by another party (either public or private) and the path or thoroughfare on which such passage is made.

**SAWMILL:** Any mill designed and constructed to allow the production of rough or finished lumber from logs.

**SCHOOL:** Includes private, public, and nursery school, college, university, and recreational facility and accessory uses.

**SHORELAND:** means all land located within 250 feet of the mean water level of a lake that is greater than 10 acres in surface area.

**SIGN:** A “sign” is any structure, display, device or representation, either temporary or permanent, portable or ground-mounted, which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any highway or other right-of-way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified, they shall include panels and frames, but not supporting structure.

**SLOPE:** Slope percent is calculated by dividing the rise or elevation by the run or horizontal distance. For example, a slope that gains 10 feet of elevation over 100 feet of horizontal distance is a 10 percent slope:  $10/100 = 10\%$ .

**STREAM:** Year-round (perennial) rivers, creeks, and streams and ponds under 10 acres as defined on current United States Geological Survey (USGS) 1:2500 scale topographic maps, Provisional Edition 1983.

**STREET FRONTAGE:** Lot lines which abut a public street or road or highway (which terms may be used interchangeably).

**STREET LINE:** Right-of-way of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center line of the street pavement.

**STRUCTURE:** For regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

**SUBDIVISION:** The division of parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, lease, or sale.

**SUBSTANTIAL IMPROVEMENT:** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years, or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
2. any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**SUBSTANTIALLY COMMENCED:** Visible signs of activity on new construction of a new structure or repair of a damaged structure, including the commitment of resources and materials to a project, such as the pouring of a foundation, the completion of a frame, or the delivery of all required building materials to the construction site.

**SURFACE WATER:** Year-round or perennial rivers, creeks, and streams, ponds and lakes as defined on current United States Geological Survey (USGS) 1:2500 scale topographic maps Provisional Edition 1983.

**TRANSFER STATION:** Land used for the disposal or transfer or recycling of waste material of any kind.

**USE, CONDITIONAL:** Any use permitted upon issuance of a Conditional Development Review permit, following approval of a permit application, by the Development Review Board.

**USE, PERMITTED:** Any use permitted upon issuance of a permit, following approval of a permit application, by the Zoning Officer.

**VARIANCE:** Permission to depart from the literal requirements of the Zoning Regulations, as provided by the requirement of Title 24, Section 4468.

**VIOLATION:** The failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**VEGETATION:** The plants, shrubs and grasses that occur naturally on a site.

**YARD:** Space on a lot not occupied by a building or structure. Porches and decks, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a

required yard.

**YARD, FRONT:** The required yard between the front of a proposed or existing structure and the abutting public right-of-way as measured from the centerline of such public right-of-way (except for shoreland districts where the front is measured from the mean water mark of the lake).

**YARD, REAR:** The required yard between the rear of a proposed or existing structure and the rear lot line as measured from the rear lot line.

**YARD, SIDE:** The required yard between the sides of a proposed or existing structure and the corresponding side lot lines as measured from such side lot lines.